BEFORE THE MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS
600 North Robert Street
St. Paul, Minnesota 55101

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION
121 7th Place East
Suite 350
St. Paul, Minnesota 55101-2147

MPUC Docket No. E015/GR-16-664
OAH Docket No. 5-2500-34078

In the Matter of the Application of Minnesota Power for Authority to Increase Rates for Electric Utility Service in Minnesota

SURREBUTTAL TESTIMONY AND SCHEDULES OF MINNESOTA OFFICE OF THE ATTORNEY GENERAL – RESIDENTIAL UTILITIES AND ANTITRUST DIVISION

WITNESS:

SHOUA LEE

July 21, 2017

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I. BACKGROUND AND QUALIFICATIONS

Q. Please state your name and business address.

A. My name is Shoua Lee. My business address is 445 Minnesota Street, Suite 1400, Saint Paul, Minnesota 55101.

Q. Did you file Testimony in this case?

A. Yes. I submitted Direct and Rebuttal Testimony on behalf of the Residential Utilities and Antitrust Division in the Office of the Minnesota Attorney General ("OAG").

II. PURPOSE

Q. What is the purpose of your Surrebuttal Testimony?

A. I will be responding to Company witnesses Mr. McMillan, Mr. Minke, Mr. Morris, Mr. Skelton, Mr. Fleege, Ms. Johnson, and Ms. Koecher, as well as other parties' rebuttal testimony on issues related to charitable contributions, Minnesota Power Foundation costs, credit card processing fees, storm damage budget, incentive compensation, employee gifts, employee expenses, membership dues, generation and transmission capital projects, and the Boswell Energy Center ("BEC") depreciation schedule.

III. CHARITABLE CONTRIBUTIONS

Q. Summarize your recommendation for charitable contributions.

A. I recommended that the calculation of the 2017 Test Year cost of charitable contributions be done using a three-year average of the Company's actual spending for the period from 2014 through 2016, which results in $412,933 (total company) for the Test Year.

Q. What was the Company's proposal?

A. The Company proposed a three-year average using its actual spending for the period from 2013 through 2015, which results in $512,000 (total company) for the Test Year.

Q. How did the Company respond to your recommendation?

A. The Company disagreed with my recommendation. Mr. McMillan stated that my recommendation "undermines the 50 percent recovery of charitable contributions allowed by both Minnesota law and Commission policy,"[1] and that the 2017 Test Year amount is higher than the amount spent in the most recent year because of higher sales and revenues in 2017.[2]

Q. Why did you recommend using the most recent three years of actual spending to calculate the average?

A. One of the primary reasons I reached this recommendation is because the Minnesota Public Utilities Commission ("MPUC" or "Commission") ordered the Company to use the most recent three years in its last rate case and concluded that "relying more heavily on factual data than stated intentions is clearly a reasonable strategy for preventing recurrence of over-recovery."[3]

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[1] McMillan Rebuttal at 27.
[2] *Id.*
[3] *In the Matter of the Application of Minnesota Power for Authority to Increase Rates for Electric Utility Service in Minnesota*, Docket No. E-015/GR-09-1151, FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER at 38 (Nov. 2, 2010); *see also* Lee Direct at 45.

Q. Do you have any concerns about the Company's assertion that higher sales and revenues in 2017 would support a higher level of charitable contribution?

A. Yes. While Mr. McMillan states that revenues in 2015 and 2016 were "severely depressed,"[4] the Company's actual charitable contributions for 2015 were at the highest levels of the last five years.[5] The fact is that the Company's actual spending has fluctuated significantly in the past, and any forecasted sales and revenues in the Test Year may not be predictive of future levels of charitable contributions. Therefore, the Company should follow the MPUC's order from the last rate case and calculate its three-year average using the actual charitable contributions from the most recent three years.

Q. Are you making any recommendation on whether or not the Company can get 50 percent recovery of its charitable contributions?

A. No. My recommendation is regarding the years that should be used in the three-year average calculation that results in the amount of the Test Year cost, and not on the percentage that the Company should be allowed recovery.

Q. What is your recommendation?

A. I recommend that the Company's Test Year cost for charitable contributions be decreased by $99,067 (total company) from $512,000 to $412,933.

[4] McMillan Rebuttal at 15.
[5] Lee Direct at 44.

IV. MINNESOTA POWER FOUNDATION ADMINISTRATIVE COSTS

Q. Did you support the Department of Commerce's ("Department") recommendation for the Company's foundation administrative costs?

A. Yes. I supported the Department's recommendation that the costs should be disallowed.

Q. Does the Company agree with the Department's recommendation?

A. No. The Company states that its "customers benefit from the administration of the Minnesota Power Foundation" and that shareholders "may or may not benefit from charitable contributions."[6]

Q. Do you continue to agree with the Department's recommendation?

A. Yes. Ms. La Plante discusses the MPUC's treatment of foundation administrative costs in other rate cases and it is appropriate in this case as well. I continue to recommend that $114,597 (MN jurisdiction) be removed from the 2017 Test Year.

V. CREDIT CARD PROCESSING FEES

Q. How does the Company respond to your recommendation for removal of the credit card processing fees from the 2017 Test Year?

A. The Company does not agree with my recommendation, and that of Mr. Zajicek. The Company maintains that its proposal "provides an important service to customers"[7] based on its J.D. Power survey and a Federal Reserve Payments Study on noncash payments.[8]

[6] McMillan Direct at 26.
[7] Koecher Rebuttal at 24.
[8] *Id*. at 23.

Q. In discussing the potential qualitative benefits of this cost, does the Company also discuss the financial benefits?

A. Yes. Regarding the credit card transaction cost used to calculate the Test Year amount, the Company states that it would "anticipate revisiting the current fee structure and expects costs would go down further"[9] and also states that "simplified payment options can help to promote the use of online options such as electronic bills as opposed to mailed paper bills, potentially reducing print and mailing costs."[10]

Q. Has the Company included these purported cost savings in the 2017 Test Year?

A. No. It appears that the Company's proposal is only based on the current costs that customers who choose this payment option are paying for, and the Company does not fully understand the impact of this proposal on future costs[11] or the associated financial benefits which the Company discussed.

Q. Is this a current cost to the Company?

A. No. This cost is currently borne by the Company's customers who chose to make bill payments by credit card or debit card, and not those customers that chose other payment methods.

Q. Did you continue to agree with Mr. Zajicek's recommendation on this issue?

A. Yes. I agree with his reasoning that "the Company has not demonstrated that there is a benefit to other ratepayers of removing the credit card transaction fee and charging it to all customers."[12] I also agree with Mr. Zajicek that "the current method directly assigns

[9] *Id.* at 24.
[10] *Id.*
[11] *Id.*
[12] Zajicek Direct at 12.

the cost of the credit card fees to the customers responsible for causing these costs, thus cost causation principles suggest that those customers should be paying those costs."[13]

Q. Does the Company respond to your concerns and recommendations about the National Association of State Utility Consumer Advocates ("NASUCA") Resolution?

A. Yes, the Company did respond. Ms. Koecher states that while the Company agrees that its proposal does not address all of the issues raised by the NASUCA Resolution, its proposal would address "the erosion of purchasing power that convenience fees represent for debit cards" and that "there are no assurances that these costs would decrease if processing were taken in-house as opposed to using a third-party payment processor." Further, the Company does not agree with my recommendation that it be required to investigate the concerns in the Resolution because it is not a requirement in the State of Minnesota.[14]

Q. How do you respond?

A. I continue to recommend that the cost of $350,000 (total company) for credit card processing fees be removed from the 2017 Test Year, and the Company be required to investigate the issue of third-party vendor processing charges as well as the cost savings of accepting credit and debit cards directly. This would also partly address the concern about the Company not having completed an analysis to demonstrate that this proposal results in a net benefit to all ratepayers. I continue to believe that it would be reasonable to order the Company to investigate handling credit and bank charges directly, because the NARUC Resolution indicates that doing so may save money for ratepayers. The fact

[13] *Id.*
[14] Koecher Rebuttal at 24.

that it is not required by law is not really relevant, because the Commission has the authority to order the Company to take actions that will lead to just and reasonable rates.

VI. STORM DAMAGE AMORTIZATION EXPENSE

Q. Does the Company agree with your recommendation?

A. Yes. Ms. Podratz discusses the Company's withdrawal of this cost from the 2017 Test Year due to the MPUC's decision to deny the Company's request for deferred accounting.[15] This removes $732,272 (total company) from the Test Year.

VII. STORM COST BUDGET

Q. Does the Company request an additional amount for storm damage costs that it did not included in its initial petition?

A. Yes. The Company is asking to increase its revenue requirement and its operating and maintenance budget for storm response costs by $1,680,267 (total company) which was not included in its initial petition,[16] rather than the approximately $1,589,000 that Mr. Fleege stated in his Direct Testimony.[17]

Q. What does it mean that the Company is seeking to add $1.68 million for storm damage costs to this case?

A. The Company's handling of storm damage costs in this case appears to be somewhat unusual. Mr. Fleege explained that the Company is seeking to include $1,680,267 (total

[15] Podratz Rebuttal at 7.
[16] Fleege Rebuttal at 10–13.
[17] Fleege Direct at 74.

company) in storm damage costs that is "in addition to the overtime RC 190 already included in the 2017 test year budget."[18] It appears to me that the Company is essentially seeking to include new costs in the test year at the time of Rebuttal Testimony. While some of the numbers have changed throughout the case, it seems the Company is now seeking an additional $1.68 million in storm costs above and beyond the $0.876 million it initially requested.[19]

Q. Is it usual for utilities to add new recovery requests after filing a rate case?

A. No, it is not, and I do not believe it is reasonable. The utility has full control over the timing and content of its rate case filings, and it would not be in the public interest to allow utilities to add new costs after the initial filing. The burden on the parties who participate in the case, including the OAG and the Department, could be significant if utilities were allowed to add new costs after the initial filing, especially given the information asymmetry between the utility and intervening parties.

Q. In addition to your concerns with adding new costs, do you have any other concerns with the storm cost budget?

A. Yes, I have some concerns about the numbers provided by the Company.

Q. How is this storm cost budget different from the storm damage amortization expense that the Company included in its initial petition, but has now withdrawn?

A. The storm damage amortization expense included in the Company's initial petition was related only to the specific storm that occurred on July 21, 2016. The storm cost budget, in contrast, seems to represent the amount of costs the Company believes it will incur as a result of storms during the test year. This storm cost budget reflects the Company's

[18] *Id.* at 11.
[19] Fleege Direct at 74.

calculation of its “incremental” operating and maintenance expense for overtime labor, overtime meals, and other expenses for storm response. This storm cost budget is calculated based on a three-year average of the Company’s “incremental” operating and maintenance expense for storm response in 2014, 2015, and 2016.

Q. What do the storm cost figures represent in Mr. Fleege’s Rebuttal Schedule 3?

A. Mr. Fleege’s Rebuttal Schedule 3 shows the Company’s claimed “incremental” costs for storm response. While there are cost figures provided for the period from 2010 through 2017, the Company has explained that the actual incremental costs for overtime labor and overtime meals are shown for the years 2012 through 2015, with the addition of incremental operating and maintenance costs beyond overtime labor and overtime meals starting in 2015.[20]

Q. Do you have any concerns about these cost figures?

A. Yes. I have three primary concerns. The first is that Rebuttal Schedule 3 does not clearly provide the detailed cost figures for each of the cost categories (e.g. OT Labor, OT Meal, other O&M costs) from 2010 through 2017 to demonstrate how the Company calculated the “incremental” costs. My understanding is that the cost figures shown in Rebuttal Schedule 3 is a subset of the Company’s total overall storm response costs which the Company asserts is the incremental portion that is above the Company’s normal levels of storm costs. I note, however, that there appear to be differences in the amount that is categorized as “incremental.” Specifically, the incremental costs for the Nisswa 2015 and Duluth July 21, 2016 storms in Mr. Fleege’s Rebuttal Schedule 4 totals $3,904,623,[21]

[20] Fleege Direct at 72.
[21] $3,904,806 - $183

while the total amount for these two storms in Rebuttal Schedule 3 totals $4,084,972[22] resulting in a difference of $180,349. It is a problem that these figures do not match up.

My second concern is related to the MPUC's decision on the Company's request for deferred accounting treatment for the costs associated with the July 21, 2016 storm. The MPUC denied the Company's request to categorize these storm costs as "unusual and unforeseen, and would have significant impact on its financial condition,"[23] and the MPUC found that "while the impact of the 2016 storm was more significant than past storms, there are years where Minnesota Power experiences no storms or very small storms, and the Company therefore incurs less costs than those built into rates."[24] As shown in Rebuttal Schedule 3, the Company had included the costs of the July 21, 2016 storm in the calculation of the incremental storm response costs even after the MPUC already found that those costs should not be recovered in addition to the normal levels of storm costs that are already built into the current base rates; in other words, the July 21, 2016 storm costs are not incremental costs when comparing the total levels of storm response costs from year-to-year.

My third concern is in regard to the assumption used by the Company to calculate the operating and maintenance portion of the total storm costs. The Rebuttal Schedule 3 notes indicate that the Company's "estimated historic O&M vs. Capital" ratio is 80%, but the Company does not demonstrate why that is the appropriate ratio to calculate the operating and maintenance portion of the total storm costs. I note that for at least the

[22] $876,788 + $3,208,184
[23] Lee Direct at 38.
[24] *Id.*

Company's identified incremental costs for the Nisswa 2015 and July 21, 2016 storms, the "O&M vs. Capital" ratio is 65% rather than 80%.

Q. Has the Company met its burden of proof in showing that these incremental storm response costs are appropriate for recovery in the 2017 Test Year?

A. No. The incremental cost figures provided do not provide a reliable basis for increasing the storm cost budget for the Test Year.

Q. Should the Company be allowed to add additional costs of $1,680,267 in the Test Year at this time?

A. No. The Company should not be allowed to add new costs that it did not include in its initial petition. The Company made the decision to not include it in the calculation of the revenue requirement and revenue deficiency in its initial petition, and should not be able to increase its revenue requirement by an amount that is roughly 6 percent of its revised revenue deficiency.[25] Adding costs this late in the case is unreasonable, and even with limited time to review I have identified several problems with them. The additional cost of $1,680,267 (total company) should not be allowed in the 2017 Test Year.

VIII. SAPPI/CLOQUET GENERATOR AMORTIZATION EXPENSE

Q. Does the Company agree with your recommendation?

A. Yes. Ms. Podratz discusses the Company's withdrawal of this cost from the 2017 Test Year due to the Company's withdrawal of its request for deferred accounting treatment

[25] $1,613,728 (MN jurisdiction) / $27,687,216 (MN jurisdiction). Podratz Rebuttal at 15, 17.

for the Sappi/Cloquet generator.[26] This removes $275,745 (total company) from the Test Year.

IX. INCENTIVE COMPENSATION

Q. What was your recommendation for these costs?

A. I agreed with Mr. Lusti's recommendation to exclude the Company's Executive Deferral Account ("EDA") and Executive Investment Plan ("EIP") from the 2017 Test Year. I also agreed with Mr. Rackers on his recommendation to exclude the portion of Annual Incentive Pay ("AIP") cost that are associated with achievement of the Company's strategic and financial goals.

Q. Did other parties support exclusion of incentive compensation costs?

A. Yes. Mr. Rackers supported exclusion of the EDA and EIP costs[27] based on additional information provided by the Company in its response to the Large Power Intervenors ("LPI") Information Response 117, which indicated the Company funds the benefit as well as the plan's investment gains/losses.

Q. Did the Company agree with these recommendations?

A. No. Ms. Johnson stated that these incentives are justified because Non-Qualified Deferred Contribution Plans like EDA and EIP are used by 17 other Edison Electric Institute utility members similar in size to ALLETE in order to attract and retain talent,[28] and that "AIP is an important component of the Company's overall compensation

[26] Podratz Direct at 7.
[27] Rackers Rebuttal at 6.
[28] Johnson Rebuttal at 25.

package and well-designed to incentivize employees to achieve goals that benefit all stakeholder."[29]

Q. Do you maintain your support of these recommendations?

A. Yes, I agree with Mr. Lusti and Mr. Rackers that there needs to be an adjustment to remove these costs from the 2017 Test Year. Mr. Rackers was provided the most recent cost information by the Company and he calculated a disallowance of $1,380,313 (MN jurisdiction) for EDA and EIP plan benefits and the administrative costs for these plans.[30] Additionally, $2,638,169 (total company) for AIP costs should be disallowed.[31]

X. EMPLOYEE GIFTS AND GIFT CARDS

Q. How much has the Company included in the 2017 Test Year for employee gifts and gift cards?

A. I asked the Company to provide more information about this in my Direct Testimony, and both Ms. Johnson and Mr. Morris responded in their Rebuttal Testimony. Mr. Morris stated that his Direct Schedule 11 shows a 2017 Test Year budget of $23,007 (total company) for employee gifts.[32] Ms. Johnson clarified that the gift amounts reported in the Company's response to MPUC Information Request 3 totaling roughly $20,000 (MN jurisdiction) is the correct cost for employee gifts that have been included in the 2017 Test Year.[33] Regarding costs for gift cards that have not been classified as either employee service awards or retirement awards, Ms. Johnson provided MP Exhibit_(NRJ)

[29] *Id.* at 16.
[30] Rackers Rebuttal at 8.
[31] Lee Rebuttal at 10.
[32] Morris Rebuttal at 20.
[33] Johnson Rebuttal at 37; Lee Direct at 61.

Rebuttal Schedule 4 to show that $64,802 has been included in the 2017 Test Year for spot bonuses.

Q. What is the Company's response to your recommendation to disallow these costs in the Test Year?

A. The Company disagreed with my recommendation. Mr. Morris incorrectly stated that I was not using the Minnesota Employee Expense Statute standard of "whether the gifts are reasonable related to the Company's provision of utility service" as the basis for my recommendation.[34] He further stated that the employee gifts that are included in the Test Year are non-discretionary, consistent with the MPUC's decision in its previous rate case, and that these gifts aids in the efficient provision of utility service by supporting employee retention and employee safety.[35]

Ms. Johnson testified that the spot bonus gift cards totaling $64,802 (MN jurisdiction) are considered part of incentive compensation to address below-market median compensation levels and should not be considered employee gifts.[36] Further, she stated that employee gifts and spot bonus awards are part of the Company's market competitive compensation and benefit program.[37]

Q. Explain the basis for your recommendation.

A. I specifically discussed the MPUC's decision regarding employee gifts from the Company's last rate case and used the MPUC's findings to form the basis of my recommendation.[38] The MPUC relied on three statues[39] to determine disallowance of

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[34] Morris Rebuttal at 21.
[35] *Id.* at 20.
[36] Johnson Rebuttal at 22.
[37] *Id.* at 36.
[38] Lee Direct at 62.

employee gifts, and I used these same statutes in this rate case to make my recommendation regarding the Company's request to recover the cost of gift cards to employees, which the Company refers to as spot bonuses.

Q. Why did you mention the fact that the Company's spending for employee gifts have significantly fluctuated and that employee terminations have increased over the 2010 to 2015 time period.

A. I mentioned these facts in response to the Company's claim that employee gifts are a non-discretionary expense and serve the efficient provision of utility service by supporting employee retention.[40] The facts are inconsistent with the Company's claim in two ways. First, costs that fluctuate from year to year are not likely to be non-discretionary in the way that the Company suggests. Second, the gifts do not appear to be effectively supporting employee retention because voluntary employee terminations have increased.[41]

That said, the fluctuations were not the main reasons for my recommendation as suggested by Mr. Morris[42] because I relied on the statutes the MPUC used in its determination to exclude the Company's employee gift costs from its last rate case.

Q. Do you still recommend disallowance of employee gifts, including gift cards given as spot bonuses?

A. Yes. Although the Company argues that spot bonus gift cards are distinct from employee gifts because they are "incentive pay" rather than "gifts," this is really a distinction

(Footnote Continued from Previous Page)
[39] Minn. Statutes 216B.03; Minn. Statutes 216B.16 subd. 4; Minn. Statutes 216B.16, subd. 17.
[40] Lee Direct at 63.
[41] Johnson Direct at 7.
[42] Morris Direct at 21.

without a difference. These gift cards are employee recognition costs not unlike service awards and retirement awards, and should be evaluated using the same standard that was applied for employee gifts by the MPUC in the last rate case. Both "gifts" and "gift cards," whether they are called "incentives" or something else, are extra payments to employees that are not necessary for the provision of utility services. The utility may choose to rewards its employees in this way, but that does not mean the costs should be recovered from ratepayers. The analysis is very similar to the issues that the MPUC considered in the Company's last rate case, and the costs should be disallowed based on the same legal principles that the MPUC considered in that case.

Q. If spot bonuses are recognition costs, why do you not include spot bonus payments made as part of payroll in your recommendation?

A. I do not include the cost of spot bonuses made as part of payroll because the MPUC's order from the Company's last rate case, which I used as the basis of my recommendation, was regarding employee gifts that are classified as employee expenses under the Minnesota Employee Expense Statute, Minnesota Statutes section 216B.16, subdivision 17.

Q. What is your recommendation?

A. I recommend that $23,007 (total company) for employee gifts and $74,474 (total company) for spot bonus gift cards be disallowed in the 2017 Test Year.

XI. TRAVEL, ENTERTAINMENT, AND EMPLOYEE EXPENSES

Q. What was your recommendation for employee expenses?

A. I recommended that the Company use a three-year average calculation of actual employee expenses in 2014, 2015, and 2016 to determine the Test Year costs for all employee expenses, except for membership dues and gifts.

It is also important to recognize that the Company adjusted the 2015 numbers to remove expenses that are not appropriate for recovery. I specifically recommended that it is necessary to apply a similar adjustment in each of the historical years to make sure that the adjustment is fully captured when using a historical average. Because no expenditures that have been identified from the 2014 and 2016 employee expenses, I recommended that a ratio of the 2015 identified expenses could be used to calculate a representative amount that should be excluded from the actual expenses in 2014 and 2016, which could then be used to calculate a three-year historical average. Additionally, I questioned whether some individual 2015 employee expense transactions should be included with those costs that the Company had already identified as inappropriate for recovery.

Q. What was the Company's response?

A. Mr. Morris disagreed with my recommendation. He specifically has a problem with using a three-year average to calculate costs that should be in the Test Year because two of the three years (2015 and 2016) were periods "marked by an unusually stringent approach to employee expenses,"[43] and he provided an analysis that shows different

[43] Morris Rebuttal at 6.

resulting cost figures when different time periods are used in the calculation.[44] He further stated my recommendation on employee expenses was different in other recent utility rate cases.[45]

Q. Why did you recommend a three-year average?

A. It has been accepted by the MPUC in previous rate cases that costs which tend to fluctuate from year-to-year be determined using an average that would be representative of those costs in the Test Year and that costs in the Test Year not be based on either the lowest levels or the highest levels. While it is true that an average based on the most recent three years would incorporate two years in which the employee expenditures were low due to cost-saving measures taken by the Company, it is also important to recognize that the other year included in the average is one in which the employee expenditures were significantly high.[46]

Q. Can you provide an example of other operating costs calculated using averages?

A. Yes. In the current rate case, the Company itself chose a three-year average to calculate the cost of charitable contributions in the Test Year.[47] And specifically regarding this cost in the Company's last rate case, the Company wanted to assume its 2010 budget as the Test Year, but the MPUC denied that request and stated that "a three-year average is likely to have more predictive value than data from a single year."[48] Furthermore, in the

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[44] Morris Rebuttal at 7.
[45] *Id.*
[46] Lee Direct at 69.
[47] Podratz Direct at 23.
[48] *In the Matter of the Application of Minnesota Power for Authority to Increase Rates for Electric Utility Service in Minnesota*, Docket No. E-015/GR-09-1151, FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER 38 (Nov. 2, 2010).

current rate case, Mr. Fleege uses a three-year average to determine the Test Year amount for storm response costs.[49]

Q. Were your recommendations for employee expenses different in other rate cases?

A. Yes. As Mr. Morris points out, I recommended the same averaging methodology in Xcel's last rate case, but used a four-year average rather than a three-year average. Additionally, in Otter Tail Power's last rate case, while I addressed specific employee expense transactions, I did not address the issue of the total levels of employee expenses and therefore did not use this averaging methodology.

Q. Why did you use four years in your averaging methodology in the Xcel rate case?

A. I used four years because Xcel used a 4-year average calculation to determine many of its operating costs for its multi-year rate plan, and it was appropriate to be consistent with its approach.

Q. Did the Company respond to your request in Direct Testimony for more information regarding employee expenses?

A. The Company responded partially, but it neglected to provide further clarification and reconciliation on differences between employee expense cost figures shown in various Information Requests,[50] and the Company has not provided the vendor name for those transactions that lists an employee name as the vendor.[51] Mr. Morris does, however, respond my request for clarification on why the Company itself is listed as the vendor on some employee expense transactions.[52]

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[49] Fleege Rebuttal at 11.
[50] Lee Direct at 74.
[51] *Id.* at 77.
[52] Morris Rebuttal at 10.

Q. Why did the Company not provide vendor names for the transactions you identified?

A. It appears that the Company believes it is providing the correct information as required by Minnesota statutes. It interprets the term vendor as the individual or organization that the Company is paying.[53] Mr. Morris also states that it would be "overly burdensome and would serve no useful purpose"[54] for the Company to provide the name of the third-party vendor that the company employee dealt with to obtain goods and services on behalf of the Company. Furthermore, he was concerned about my portrayal of the Company's response to my request for vendor names.[55] I agree with Mr. Morris that the Company did not specifically say that it "would not be able to provide the business names," but the fact remains that it still has not provided the third-party vendor names. Although Mr. Morris suggested that I did not ask for a follow-up to the Company's response in December 2016 when I did not receive vendor names, the burden of proof remains on the Company because it is the party requesting recovery.[56]

Q. Do other utilities provide the third-party vendor names for employee expense transactions?

A. Yes. Based on my experience with reviewing employee expense transactions in Xcel's most recent rate case, the merchant name was provided for all employee expense transactions, with the exception of mileage reimbursement for those employees using their personal vehicles for business.

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[53] *Id.* at 8.
[54] *Id.* at 9.
[55] *Id.*
[56] *Id.*

Q. Have there been concerns about the transparency of the Company's travel and entertainment expenses in the past?

A. Yes. This issue was thoroughly litigated in the Company's last rate case.[57] In that case, like this one, the OAG raised several concerns regarding the support for the Company's employee related expenses. While the MPUC did not adopt all of the OAG's recommendations, it did conclude that "the Company's policies and practices make it extremely difficult to confirm the accuracy, legitimacy, purpose, and reasonableness of these expenses."[58] The MPUC concluded that it could not "include in rates expenses that have not been shown, by substantial evidence in the record, to be reasonable, prudent, and necessary for the provision of utility service."[59] Furthermore, the MPUC ordered the company "in future rate cases, to include and itemize employee recognition expenses within the travel, entertainment, and related employee expenses it is required to list and document under Minn. Stat. sec. 216B.16, subd. 17."[60]

Q. What are the requirements of Minnesota Statutes section 216B.16, subdivision 17?

A. Subdivision 17 states that the Commission may not allow the utility to recover travel, entertainment, or related employee expenses that are not both reasonable and necessary for the provision of utility services. Subdivision 17 also requires a utility to provide a schedule separately itemizing all expenses. It also creates specific requirements for the information that must be included in the utility's itemization. It states, "To comply with the requirements . . . , each applicable expense . . . must be itemized separately, and each

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[57] *In the Matter of the Application of Minnesota Power for Authority to Increase Rates for Electric Utility Service in Minnesota,* Docket No. E-015/GR-09-1151.

[58] *In the Matter of the Application of Minnesota Power for Authority to Increase Rates for Electric Utility Service in Minnesota,* Docket No. E-015/GR-09-1151, FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER 33 (Nov. 2, 2010).

[59] *Id.*

[60] *Id.*

itemization must include the date of the expense, the amount of the expense, the vendor name, and the business purpose of the expense."[61] I would like to call particular attention to one of these requirements. Subdivision 17 is very clear in that the employee expenses a utility seeks to recover must include a vendor name. In fact, expenses that do not include a vendor name do not "comply" with the statute, and the Commission "may not allow" them as operating expenses.[62] There should have been no need for any party to request this information from the Company, and it should not have to be subject to dispute in this proceeding.

Q. How does this requirement relate to the Company's last rate case?

A. The Company is already required to provide vendor names based on the clear language of subdivision 17. And the Company should have been doubly on notice, because the MPUC reinforced this requirement by specifically ordering the Company to comply with subdivision 17 after disallowing similar expenses in the Company's last rate case.

Q. Has the Company complied with subdivision 17 and the MPUC's Order?

A. No, the Company has not complied because it has not provided a vendor name for many expenses. In order to allow expenses of this nature for recovery, the utility must provide a vendor name. There are no exclusions or excuses provided in the statute.

Mr. Morris's explanation is that there is no vendor name because the utility paid money directly to employees in reimbursement for expenses they incurred while doing necessary utility work.[63] Mr. Morris's explanation clarifies that, for these expenses, utility dollars are flowing through utility employees to outside vendors for goods and

[61] Minn. Stat. sec. 216B.16, subd. 17(b).
[62] *Id.* subds. (a) and (b).
[63] Morris Rebuttal at 9.

services on behalf of the Company, and that the utility is now seeking recovery of these expenses from ratepayers. When a utility seeks recovery of expenses that were paid to outside vendors for employee expenses, Minnesota law requires that the utility identify the outside vendors and purpose for the expenses before recovery may be permitted. The fact that the Company has not arranged its business systems to capture this information does not excuse the utility from following the law. In fact, Mr. Morris appears to admit that the utility has this information stored in some different format, but simply chose not to provide it for this case,[64] even after the issue has been subject to dispute.

Q. What is your recommendation regarding these specific employee expense transactions?

A. All expenses for which the Company did not provide a vendor name must be disallowed according to Minnesota law. The language in subdivision 17 is very clear and provides no exceptions. Minnesota utilities under MPUC jurisdiction have been subject to that law since 2010, and there are no justifications for failing to comply with the plain language of the law. I recommend that these expenses totaling $27,520 (total company)[65] be disallowed and added to the 2015 employee expense adjustment in the calculation of the three-year average. Furthermore, the MPUC should order the Company to provide this vendor information for all employee expenses it seeks recovery of in future cases.

Q. What about expense transactions that list the Company as the vendor?

A. Mr. Morris explained that these transactions were for employees who chose to use their company credit cards to pay for parking at the Company-owned parking lot. He further

[64] Morris Rebuttal at 8 ("[T]he actual receipt is attached to the expense report. Minnesota Power maintains this supporting documentation for future inquiry.").
[65] Lee Direct at 76.

confirmed that both the revenues and expenses for the parking lot have been included in the 2017 Test Year and that parking costs have not been double-counted.[66] Therefore, no adjustment is necessary for these costs totaling $6,301 (total company).[67]

Q. What about expense transactions incurred for employees to practice in other states?

A. The Company does not agree with my recommendation to remove those costs,[68] specifically for three top executives to maintain their professional licenses to practice in the states of Nebraska and Wisconsin.[69] Mr. Morris states that "professional licenses...[a]nd memberships indicate a level of professional competency, proficiency, and achievement regardless of the exact location of the licensing state." This logic ignores the fact that these costs are not necessary for these employees to perform their job duties in the state of Minnesota, and that Minnesota ratepayers are already paying for their Minnesota required licenses to perform their job duties. Therefore, these expenses totaling $632 (total company) should be added to the 2015 employee expense adjustment in the calculation of the three-year average.

Q. What is your recommendation for employee expenses in the 2017 Test Year?

A. I recommend that the Company include $27,520 (total company) and $632 (total company) to the Company's proposed adjustment of $1,433,728 (total company).[70] Additionally, the Company has identified two new expenditures from 2015 totaling $991 (total company) that are inappropriate for recovery and will add to the adjustment.[71] These amounts increase the adjustment to $1,462,871 (total company), which should be

[66] Morris Rebuttal at 11.
[67] Lee Direct at 76.
[68] Morris Rebuttal at 11.
[69] Lee Direct at 75.
[70] *Id.* at 72.
[71] Morris Rebuttal at 12.

applied to the 2015 actual expenditures to decrease the amount that is recoverable, in calculating the three-year average.

Q. Can you update your Table 11 from your Direct Testimony with your new adjustment to show what the three-year average calculation is?

A. No. I realized that the adjustment amount that I used in Table 11 of $1,433,728 is the total company amount and not the MN jurisdictional amount, and I have not calculated the 2017 Test Year impact. As far as I am aware, it would not be a problem to address the issue on the total company figures, and then have the Company calculate the Test Year impact in the future if the ALJ or the Commission agrees with my recommended disallowance.

XII. MEMBERSHIP DUES

Q. What was your recommendation for membership dues?

A. I recommended that the membership dues for the following organizations be disallowed because the Company has not been able to identify the portion of the organization's activities that benefit Minnesota Power ratepayers, which are not related to lobbying or those activities that influence legislative and regulatory policy.

- Edison Electric Institute, including USWAG and UARG
- Western Coal Traffic League
- Utility Water Act Group
- Mining Minnesota
- Minnesota Forest Industries
- Minnesota Timber Producer Association

- National Association of Manufacturers
- American Wood Protection Association
- National Coal Transportation Association
- World Steel Dynamics Incorporated
- National Hydropower Association

Q. Did the Company respond to your request in Direct Testimony about the individual membership costs that have been included in the 2017 Test Year?

A. No, the Company did not provide this information as I had requested.[72]

Q. Has the Company provided descriptions of the ratepayer benefits of membership in these organizations?

A. Yes. The Company has responded to multiple Information Requests and described in testimony the benefits it believes are provided to Minnesota ratepayers from its membership in these organizations.

Q. If the Company has already provided descriptions of the benefits, then what else is needed to support recovery of these membership dues?

A. The Company needs to break out the portion of the organization's activities that benefit Minnesota Power ratepayers, which are not related to lobbying or those activities that influence legislative and regulatory policy.

Q. Why is this?

A. As I explained in my Direct Testimony, there have been two recent California rate cases where the CPUC has found that a larger portion of an organization's activities were attributable to lobbying and other political activities than were reported by the

[72] Lee Direct at 50, 54.

organization and the CPUC subsequently disallowed a larger portion of the membership dues than was proposed by the utility.[73] This CPUC decision was based on a 2005 National Association of Regulatory Utility Commissioners ("NARUC") audit of that organization's activities.

Q. What was the organization in question?

A. It was the Edison Electric Institute ("EEI").

Q. How does the EEI currently report its lobbying-related activities to its members?

A. The Company explained that "on the invoices Minnesota Power received from EEI, the dues are divided into dues used for lobbying expenses and dues that are unrelated to lobbying expenses."[74]

Q. Is the IRS's definition sufficient to capture all lobbying related activities for ratemaking purposes?

A. No. The IRS's definition is used for tax reporting purposes, and as demonstrated by the NARUC audit report, there are some EEI activities that pertain to "lobbying, legislative policy research and advocacy, regulatory advocacy, public relations, advertising, donations, and club dues" that are categorized as lobbying by the IRS, but which offer no ratepayer benefits. The CPUC has previously agreed with the NARUC audit report that these activities do not provide benefits to ratepayers and should not be recovered, and subsequently disallowed a greater portion of the membership dues than was reported by the organization as related to lobbying activities.

[73] Lee Direct at 51.
[74] Morris Rebuttal at 14.

Q. How did the Company respond to your recommendation?

A. The Company disagreed with my recommendation and stated that it has already removed all lobbying related costs from the Test Year by using "the percentage of lobbying activities that each organization identified for IRS reporting purposes."[75] Mr. Morris further stated that my recommendation for the Company to report all association activity using the NARUC audit categories for membership dues is not required by the Minnesota Employee Expense Statute.[76]

Q. What was the Company's response on the CPUC's decision and the MPUC's decision in the most recent CenterPoint rate case?

A. The Company highlighted the differences between these cases and its own, and stated that "the California rate case decisions are of no persuasive value here."[77] The Company stated that the situation in the California rate cases pertained to that utilities "not using the EEI division of its dues into lobbying and non-lobbying, as Minnesota Power is doing"[78] and that the MPUC decision in the CenterPoint rate case pertained to the utility seeking "to include all of its dues paid to the American Gas Association...[u]nlike CenterPoint, the Company has...[d]ivided dues expenses to separate lobbying expenses from non-lobbying expenses.

Q. Is the Company's request to recover an amount that is different from the other utilities a relevant fact?

A. No. Regardless of the amount that utilities seek recovery of, they must be able to demonstrate that the membership costs that are included in the Test Year are for non-

[75] *Id.* at 17.
[76] *Id.* at 15.
[77] *Id.*
[78] *Id.*

lobbying activities. While the Company has relied on the organization's self-reported division of lobbying and non-lobbying activities, the NARUC audit report that is used in the California rate cases demonstrates that the self-reporting of lobbying activities done by the organizations are sometimes not accurate. The primary conclusion of the NARUC audit report is that the amount of "lobbying expenses" that EEI self-identifies was, at the time, not an accurate representation of the amount of membership dues that EEI actually devoted to lobbying-type activities.

Since the MPUC decided in the CenterPoint rate case to disallow membership dues because it could not determine the portion of dues used for lobbying, it would be appropriate to do the same here because the Company has not provided the breakout of lobbying and non-lobbying activities as requested by the OAG in Information Request 152[79] so that a more accurate calculation of membership dues can be done for rate recovery.

Q. What does the Company say about OAG's position in the most recent Otter Tail rate case?

A. The Company stated that "Ms. Lee took essentially the same position she is taking in this rate case, opposing recovery of any dues for EEI. The Administrative Law Judge, and the Commission, agreed with Otter Tail Power and allowed recovery for the non-lobbying portion of the dues."[80]

Q. Can you describe the circumstances of the Otter Tail rate case?

A. Yes. First, it is worth pointing out that that while the OAG did raise this issue in the Otter Tail rate case, I was not the witness who did so. That said, the OAG has used and

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[79] Lee Direct Schedule SL-14.
[80] Morris Rebuttal at 14.

continues to use the standard provided for in Minnesota Statutes section 216B.16, subdivision 17 in making any recommendations on employee expenses. At the time of this Otter Tail rate case, the information on the NARUC audit report used in the California rate case was not known to the OAG. The OAG is now aware of the demonstrated history of inaccurate division of membership costs between lobbying and non-lobbying activities reported by the organizations, and intends to investigate the matter further in current and future rate case proceedings.

Q. What does the Company state about the NARUC audit report?

A. The Company states that "the NARUC audit results are not in the record in this case, and...[t]hey would be quite obsolete."[81] The Company also stated "it is unclear how Minnesota Power would have the level of detailed information about the activity of EEI or other organizations."[82]

Q. Why is this argument unreasonable?

A. The Company is requesting over half a million dollars in membership dues, of which over $260,000 is for EEI. [83] The Company must be able to demonstrate that these costs are not related to lobbying activities, and in light of the NARUC audit report showing that more activities are related to lobbying than is self-reported by the organizations using the IRC definitions, this expense should be closely reviewed as more issues and changes arise in the regulatory and policy landscape.

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[81] *Id.* at 15.
[82] *Id.*
[83] MP Exhibit_(MAP) Direct Schedule G-3.

Q. Are you including a copy of the NARUC audit report?

A. Yes. I have included it as Schedule-SL-SR-1. In addition, I note that the NARUC report I have provided is attached to a longer and more recent report addressing utility requests to recover EEI dues from ratepayers. This report demonstrates that the issue is not as simple as the utility makes it out to be, and that regulators in many states have been grappling with whether and to what extent ratepayers should be required to subsidize trade organizations that engage in activity that may not directly benefit ratepayers.

Q. What is your recommendation on membership dues?

A. I continue to recommend disallowance of the membership dues I identified above, and note that the membership dues for trade associations outside of the energy industry should not be recoverable (similar to the Lignite Coal Council which the Company has chosen not to seek recovery for). Because the Company has not provided the amount included in the 2017 Test Year for each membership, my recommendation will be based on the actual 2015 costs for these organizations totaling $400,671 (total company), which may be lower than cost of current membership.

XIII. DEPRECIATION FOR THE BOSWELL ENERGY CENTER

Q. How did the Company respond to your recommendation regarding the BEC?

A. The Company disagreed with my recommendation and reiterated its proposal to separate the depreciation schedule of all BEC units from the operational life, combine them into a single life, and extend the depreciation schedule to 2050. The Company further explained that its extension proposal could be accomplished either by using a group or composite method for depreciation to combine all BEC units and the Common Facilities,

or the depreciation schedule of each BEC unit and the Common Facilities could individually be set to 2050.[84]

The Company further stated that its proposal is consistent with FERC accounting and GAAP due to FAS 71 and ASC 980 which would allow the Company to either treat its proposal as a regulatory asset, and would allow the Company to request a variance from the MPUC if one is required.[85]

Q. Do you take a position on whether the Company's assertion about compliance with FERC accounting and GAAP is correct?

A. No I do not. I note, however, that the current practice of setting the depreciation remaining life for BEC is done at each individual generating unit level rather than under a composite method.

Q. Did the Company address the concerns you raised with its proposal for BEC depreciation schedules?

A. I have reviewed the Company's response and do not find anything in it that changes my recommendation. In my Direct Testimony, I raised five specific concerns regarding the Company's proposal: 1) stranded costs; 2) removal costs; 3) estimated O&M and replacement costs; 4) long-run increased returns; and 5) delay of coal retirements.

Q. How did the Company respond to your concern regarded stranded costs?

A. The Company did not agree with my definition of "stranded costs."[86] Regardless of what words are used, it is a problem when utilities have remaining plant balances at the time plants are closed. There are good public policy reasons why ratepayers should not

[84] Minke Rebuttal at 8–9.
[85] *Id.* at 11.
[86] Minke Rebuttal at 12.

normally be required to pay for plants that are not operating or providing any benefit, and the Company's proposal is problematic because it will create this result. I do not believe it is in the public interest to adopt a proposal that will lead to ratepayers paying for plants until 2050, when those plants are expected to close in 2018 and the 2030s.

Mr. Minke also suggests that I am incorrectly assuming that BEC will close before the end of its "new" useful life in 2050. This merely serves to highlight that the Company is trying to have it both ways with regard to the BEC extension proposal. The Company has repeatedly stated that it is not seeking to extend the operational life of the facility, but then argues that it *could* extend the operational life and so it makes sense to extend the depreciation remaining life. These positions are inconsistent, and I do not believe that this level of inconsistency and lack of transparency should be taken in favor of the Company's proposal.

Q. Did the Company respond to your concerns about removal costs?

A. The Company admits that, if its proposal is approved, it will not have accumulated sufficient removal dollars to fund the decommissioning of BEC units 3 and 4 in the 2030s, as is currently expected.[87] It seems that the Company does not view this as a problem, but I do not believe it would be reasonable to intentionally plan that removal dollars will not be available at the time decommissioning is expected.

[87] Minke Rebuttal at 14.

Q. Did the Company respond to your concerns about estimated O&M and maintenance costs?

A. Mr. Minke essentially responds that the time horizon to 2050 is so far out that cost estimates would no longer be sufficiently precise to be useful.[88] Mr. Minke concludes that this is not a problem because it is normal.

I do not agree. MP is asking for unusual treatment of depreciation for the BEC units. The primary piece of evidence supporting its proposal appears to be an engineering opinion that the facilities *could* be operated until 2050 if the necessary maintenance and upgrades are completed. This is a large caveat when discussing whether to operate power plants more than a decade longer than the current planned dates, which are still decades away from today. I do not believe that it would be reasonable to agree to such a proposal with no information about what types of costs may be required and no ratepayer protections if the costs increase.

Q. Did the Company respond to your concerns about increased returns for shareholders?

A. Mr. Minke states that the increased returns to shareholders are represented by the time value of money, and is a "compensation for the delay in the amount of time until they see a full return on their capital investment."[89]

I do not agree with Mr. Minke's argument. The proposal would increase the rate base balances for the BEC units, which would increase the returns paid by ratepayers to shareholders. I also note that Dr. Varadarajan, representing the Clean Energy

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[88] *Id.* at 12.
[89] Minke Rebuttal at 14.

Organizations, appears to agree with my concerns regarding increased returns and has analyzed this issue and have calculated the increased returns.[90]

Q. Did the Company respond to your concerns regarding the retirement of coal facilities?

A. Mr. Minke claims that "[e]xtending the [depreciation] life will not materially change the analysis to either close or retain the operation of a plant."[91] I do not agree. The amount of time ratepayers will be paying for a plant will obviously be a factor in future decisions about whether to close the plants or operate them longer than planned. These decisions are very complex and are impacted by a variety of factors, but Mr. Minke's suggestion that the depreciation schedule would be irrelevant is simply not credible. If the Commission is deciding whether to close BEC units 3 and 4 in the 2030s, whether or not the plants are mostly depreciated will likely be an important factor in the decision. The decision on the depreciation schedule will have an impact on the future operation of the plants.

Q. Do the Company's responses change your position on BEC?

A. No. I have reviewed the Company's response to my concerns, and find it lacking. I raised many serious concerns about the Company's proposal and the Company's response does not lead me to change my position.

Q. What do you recommend for the Company's depreciation extension proposal?

A. I recommend the Commission reject the proposal and maintain the current depreciation schedule for BEC units 3 and 4. I do not make a recommendation on BEC units 1 and 2.

[90] Varadarajan Rebuttal at 6.
[91] Minke Rebuttal at 15.

XIV. BEC UNITS 1 AND 2 REPLACEMENT CAPACITY AND ENERGY

Q. Does the Company provide any cost information on the replacement generation that you requested in Direct Testimony?

A. No. In my Direct Testimony, I raised concerns that the Company had been ordered to close BEC units 1 and 2 only after it had obtained replacement energy and capacity. Since the Company announced that it would be closing BEC units 1 and 2 in 2018, it seemed that the Company must have taken steps to obtain the replacement capacity and energy it was ordered to obtain. I was concerned that some costs related to this replacement energy and capacity could be included in this rate case, and that, if so, it would be double counting costs in base rates since BEC units 1 and 2 are also included in the Test Year. I asked the Company to respond to the issue by providing information on its plans to replace the capacity and energy from BEC units 1 and 2.

The Company did not respond to this issue at all, and provided no information to address my concerns.

Q. Should the Company be able to recover both the costs of BEC units 1 and 2 and any replacement energy and capacity that may be included in the Test Year?

A. While the MPUC required the Company to obtain energy and capacity to replace the electricity that would be generated by BEC units 1 and 2, I do not believe that it would be reasonable to recover both costs in base rates at the same time.

Q. What do you recommend for the replacement energy and capacity costs associated with the closure of BEC units 1 and 2?

A. Given the Company's decision not to address my concerns, I conclude that it would be reasonable for the Commission to take action to ensure that both costs are not included in

base rates so that ratepayers are not paying for the same capacity and energy cost twice. Because capacity costs are normally included in base rates, I recommend that the Commission impute a cost for replacement capacity and disallow it from the Test Year. Because the Company has not provided any information in response to my concern, it is difficult to identify a dollar amount. In these circumstances, and in light of the Company's decision not to provide any information, I believe it would be reasonable to make an adjustment using use the costs from one of the Company's previous capacity and energy purchased power agreement[92] to impute an amount.

XV. TRANSMISSION CAPITAL ADDITIONS

Q. What was your recommendation for transmission capital additions in the 2017 Test Year?

A. In Direct Testimony, I recommended that the Company adjust its 2017 Test Year beginning balance for plant in-service to reflect the lower levels of in-service plant in 2016 and decrease the revenue requirement by $1,604,396 (total company). In Rebuttal Testimony, I supported Ms. Campbell's recommendation to carry the impact of this lower level of in-service plant through to the end of the Test Year, which would decrease the Test Year revenue requirement by an addition $1,604,396 (total company). I also supported Ms. Campbell's recommendation to move three transmission projects out of

[92] *See, e.g., In the Matter of Minnesota Power's Request for Approval of a Power Purchase Agreement with Manitoba Hydro Company,* Docket No. E-015/M-11-938, (September 16, 2011).

the 2017 Test Year because these projects would not be in-service within the Test Year, which would result in a reduction to the Test Year of $432,510 (total company).

Q. Has the Company provided new information on transmission capital projects?

A. Yes. Mr. Fleege provided a supplemental revised response to the Department's Information Request 2105 in his Rebuttal Testimony. This new revised information corrected the cost figures from capital expenditures, which represent dollars spent by the Company, to capital additions to plant in-service.[93]

Q. Was the actual capital additions greater than the Company's projected Test Year beginning balance?

A. Yes, the plant in-service beginning balance for the Test Year was $32.26 million; this is greater than the Company's 2017 beginning balance of $31.37 million.[94]

Q. Did the Company provide more information about the capital projects that will go into service in 2017?

A. Yes, Mr. Fleege discusses those projects and provides updated information on the progress of those projects. He also provides information on projects that the Company would like to have replaced with the projects that it originally included in its petition that will not go into service in the Test Year.

Q. What is your recommendation?

A. I agree with Mr. Fleege that the updated cost showing the correct capital additions to plant in-service is greater than the initial Test Year amount, and that no adjustment is needed for the 2017 Test Year beginning balance for plant in-service.

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[93] Fleege Rebuttal at 16.
[94] *Id.*

I do not agree, however, that the Company should be able to replace the capital projects it chose to include in its original petition with other projects when it is discovered that those capital projects will not go into service in the Test Year. The Company states that as time progresses, it is constantly reviewing the priority of capital projects and may accelerate or delay projects, but it is also a fact that the Company has full control over when it files its rate case and has the burden of proof for supporting all costs in its initial petition. Because this is an issue originally raised by the Department, I will defer to Ms. Campbell on her recommendation in Surrebuttal Testimony on this issue.

XVI. GENERATION CAPITAL ADDITIONS

Q. What was your recommendation for generation capital projects that would not be in-service in the 2017 Test Year?

A. I recommended that these seven projects totaling $2,303,091 with a revenue requirement impact of $127,314 (total company) be removed from the Test Year.

Q. How did the Company respond?

A. The Company disagreed and argued, as with the transmission capital additions, that Company makes necessary adjustments to individual capital projects and that shifting capital projects will allow the utility to ensure that higher priority projects are completed.[95] The Company also stated that the MPUC's decision in the Xcel multi-year rate plan proceeding recognized that in-service date changes will arise and that if updated

[95] Skelton Rebuttal at 3.

in-service date information is considered, then replacement projects should also be considered.[96]

Q. Do you agree with the Company in using the MPUC's decision in the Xcel multi-year rate plan to support its request?

A. While at first glance it seems appropriate because both cases involved capital project additions, it is important that each rate case be decided on the unique set of facts and circumstances in that case. In particular, the MPUC's decision to allow Xcel to substitute new projects was made in the context of a multi-year rate plan where the utility requesting recovery under this proposal would be "locked-out" of filing for a rate case for multiple years until after the expiration of the multi-year rate plan. It is also important to recognize that the capital additions Xcel sought to include were for a "step year" or second year in a multi-year rate plan, where there was a Commission Order Point 23(B) subjecting all "step year" capital project additions to a refund if the costs included were incorrect due to postponed or cancelled projects.[97] Minnesota Power chose not to file a multi-year rate plan for this case, which makes the resolution of this issue in this proceeding very different from the recently concluded Xcel case.

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[96] *Id.* at 8.

[97] *In the Matter of the Application of Northern States Power Company for Authority to Increase Rates for Electric Utility in Minnesota*, Docket No. E-002/GR-13-868, FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER 26 (May 8, 2015).

Q. Should the Company be allowed to replace capital projects included in its initial petition with new ones once it is determined that those initial projects will not be in service?

A. No. The Company retains full control over when it files its rate cases in relation to its budgeting and fiscal calendars, as well as with choosing the costs to include in its initial petition.

Q. Is the Company asking to replace generation capital projects included in its initial petition with new ones?

A. No. While Mr. Skelton agrees that the initial projects totaling $2,303,091 would be replaced with projects only totaling $1,209,791,[98] the Company has not proposed to replace the initial projects with the new projects and to make an adjustment in the Test Year for the difference in cost. The Company maintains that the "2017 test year capital budget presented in...[D]irect Testimony is reasonably representative of our capital investments for 2017."[99]

Q. What is your recommendation?

A. I continue to recommend that the seven capital projects that will not be in service in 2017 be removed from the Test Year, which has a revenue requirement impact of $127,314 (total company).

[98] Skelton Direct at 8.
[99] *Id.*

XVII. CONCLUSION

Q. Summarize your recommendations.

A. I recommend the following reductions to the revenue requirement:

- $99,067 (total company) for charitable contributions;
- $114,597 (MN jurisdiction) for Minnesota Power Foundation administrative costs;
- $350,000 (total company) for credit card processing fees;
- $732,272 (total company) for storm damage amortization expense;
- $1,680,267 (total company) for storm cost budget;
- $275,745 (total company) for the Sappi/Cloquet amortization expense;
- $1,380,313 (MN jurisdiction) for both EDA and EIP plan benefits;
- $2,638,169 (total company) for the Annual Incentive Plan Program;
- $23,007 (total company) for employee gifts and $74,474 (total company) for spot bonus gift cards;
- $400,671 (total company) for membership dues;
- $127,314 (total company) for the seven 2017 generation capital projects that will not be in-service in the Test Year; and
- $833,334 (MN jurisdiction) for start-up/re-idling costs for Taconite Harbor.

Regarding employee expenses, I make a multi-part recommendation. First, I recommend that the amount of employee expenses in the 2017 Test Year should be based on a three-year average including 2014, 2015, and 2016. In order to use the correct actual amount of recoverable employee expenses from 2014, 2015, and 2016 to calculate the three-year average, I recommended that the downward adjustment the Company

identified for the 2015 expenses be applied to 2015, rather than to the 2017 Test Year as proposed by the Company. Further, the downward adjustments for 2014 and 2016 should be calculated using the ratio based on 2015 expenses. Finally, I identified additional 2015 expenses that are not appropriate for recovery, including $27,250 (total company) for transactions that do not list a third-party vendor name and $632 (total company) for professional licenses in other states, and recommended that these expenses be added to the Company-identified 2015 downward adjustments. I also recommend that the Company be required to provide vendor names for all expenses it seeks recovery of in the future. I was not able to calculate the Test Year impact of this recommendation, because some of the cost figures I have are MN jurisdiction and others are total company. My analysis indicates that it would be approximately $0.5 million on a total company basis.

Regarding BEC units 1 and 2, I recommended that the Commission impute some capacity costs for replacement capacity because the Company did not respond or provide any evidence to satisfy my concerns.

Regarding BEC units 3 and 4, I recommended that the Commission reject the Company's proposal for BEC units 3 and 4 which has the impact of increasing the revenue requirement by $15,936,118 (MN jurisdiction).

Q. Does this conclude your testimony?

A. Yes.

ENERGY AND POLICY INSTITUTE

Paying for Utility Politics

How utility ratepayers are forced to fund the Edison Electric Institute and other political organizations

May 2017

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The Energy and Policy Institute is a watchdog organization working to expose attacks on renewable energy and counter misinformation by fossil fuel and utility interests. It does not receive funding from for-profit corporations or grants from government agencies.

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Table of Contents

Executive Summary

This report explores how regulated utility companies are including their Edison Electric Institute (EEI) annual payments, along with payments to other trade associations, in their operating expenses. The widespread practice forces ratepayers to pay for political and public relations activities with which they may not agree, and from which they do not benefit. It also has the effect of ratepayers subsidizing the political activities of EEI and other trade associations. Utility commissions have a responsibility to protect ratepayers from paying for industry groups and their political work along with public relations activities. But utilities have become adroit at using EEI, and other organizations, to effectively and quietly influence policy while sheltering their shareholders from the bulk of the associated costs. Almost no other political organizations have the luxury of subsidization enjoyed by EEI and other representatives of the regulated utility industry.

EEI's Revenue, Expenses, Actions - and Why Ratepayers Shouldn't Be Paying for it

EEI is an inherently political organization, and a powerful one. At $90 million in 2015, EEI's budget is the highest it has been in over a decade, an increase which the nation's electric ratepayers have funded. President Thomas Kuhn made $4.1 million in 2015 and is one of the highest paid industry association executives. The association's budget is primarily spent on staff, many of whom spend a considerable amount of their time working to help member utilities achieve desired policy and regulatory outcomes; not all of these activities are considered lobbying under the definition EEI uses from the Internal Revenue Code, but their actions are still political in nature.

In EEI's own words, in 2015 it "rebalanced the public conversation through extensive earned media efforts at the national and state levels" to address fixed-cost recovery, "educated regulators and consumers advocates on key industry issues, including capital expenditures that highlight the record-high investments in the grid"; and spent time to make sure that the Federal Energy Regulatory Commission (FERC) "provides compensatory returns on equity that recognize the risks associated with transmission construction."[1]

These activities are intended to benefit utilities' bottom line, and it is likely that none would count in EEI's definition of lobbying, which many utility commissions use to determine which fees should not be borne by ratepayers.

1 EEI 2015 Results In Review available at http://big.assets.huffingtonpost.com/eeibooklet.pdf; EEI's 2016 Wall Street Briefing available at http://web.archive.org/web/20160715202904/http://www.eei.org/resourcesandmedia/industrydataanalysis/industryfinancialanalysis/Documents/Wall_Street_Briefing.pdf.

Utility Companies Charging Ratepayers for EEI Dues

Electric utility ratepayers are paying for EEI's activities when an investor-owned utility includes payments to EEI (and other industry trade associations) as part of the company's cost of service in rate requests. Public utility commissioners generally approve a substantial portion of these dues with only minimal oversight, with some notable exceptions. Utility ratepayers are usually unaware that a portion of their electricity bill is going to subsidize EEI. In Florida Power & Light's 2016 rate request, for example, the utility revealed that its ratepayers are on tap to pay more than $9.5 million in EEI dues from 2015 to 2018.[2] These EEI dues went unchallenged during the Florida Public Service Commission's consideration of the utility's request to raise rates on ratepayers. A table listing examples of more than two dozen companies recovering their EEI dues from ratepayers is included in an appendix of this report.

Other Political Organizations Beyond EEI Receive Utility Ratepayers Money

EEI is not the only political organization that receives money from utility ratepayers. The American Gas Association, Nuclear Energy Institute, and the U.S. Chamber of Commerce, for example, are all groups that are often included in rate requests so that ratepayers pay for the utility's annual membership fees. Given how these organizations promote fracking and natural gas infrastructure,[3] propose bailouts for nuclear power plants,[4] and spread misinformation regarding the science of climate change,[5] they are also all political in nature. An examination of Wisconsin Public Service Corporation classification of industry association dues, for example, reveals that the utility proposed that its ratepayers help pay for not only the American Gas Association and the U.S. Chamber of Commerce membership fees, but also both the Republican and Democratic Governors Associations, and the Republican State Leadership Committee.[6]

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[2] Florida Power & Light Industry Association Dues (MFR C-15 draft) available at https://drive.google.com/file/d/0B-0ZwtRThY3LVjRjSVVPTjZ6N28/view

[3] American Gas Association, "Responsible Natural Gas Development" available at https://www.aga.org/environment/responsible-natural-gas-development

[4] Nuclear Energy Institute, "Incentives for Energy Production" available at https://www.nei.org/Issues-Policy/Economics/Incentives-for-Energy-Production

[5] Union of Concerned Scientists, "Who Stands with the U.S. Chamber of Commerce on Climate Change? New Data Says Few (Still)" available at http://blog.ucsusa.org/gretchen-goldman/who-stands-with-the-u-s-chamber-of-commerce-on-climate-change-new-data-says-few-still-788

[6] Wisconsin Public Service Corporation Governmental Relations/Memberships (Docket 6690-UR-124) available at https://www.documentcloud.org/documents/3227546-Wisconsin-Public-Service-Corporation-Dues.html

Often these payments are tucked in among industry association dues payments to less political institutions that have been recognized as providing beneficial services, such as the Electric Power Research Institute or North American Electric Reliability Corporation.

Utility Companies Push Back Against Oversight of Their EEI Dues

When third-party organizations or public service commission staffs have attempted to protect ratepayers from funding political organizations in recent years, their attempts have met with fierce resistance from the utility companies. Nevertheless, some auditors at public utility commissions and some consumer advocates either have successfully asked that the burden of proof be placed on a utility company to show how EEI dues benefit ratepayers, or have asked for more financial information regarding EEI's spending in attempts to show commissioners that EEI's spending is intended to benefit shareholders.

Waning Regulatory Oversight of Ratepayers' Paying for Political Memberships

For a time between the 1980's and early 2000's, the National Association of Regulatory Utility Commissioners (NARUC) investigated EEI's misuse of utility customer money for lobbying and public relations. This led to NARUC conducting annual audits of EEI's financial records.[7] The result was a system of compromise where, based on NARUC's annual audits, regulators ruled that utilities could collect a significantly smaller portion of their EEI dues from ratepayers. For example, the Florida Public Service Commission increased the lobbying portion of EEI dues that utilities were not allowed to recover from ratepayers from 2% in 1982 to roughly 33% in 1984.[8] The commission also barred utilities from charging ratepayers for payments to EEI's "Media Communications Program."

Over a decade ago, the NARUC audits stopped and consumer advocates have since had difficulty in fully understanding how EEI spends ratepayer money. In 2013, however, The Utility Reform Network had success getting 43.3% of the EEI dues paid by Pacific Gas & Electric' shareholders during that utility's rate request and not ratepayers as the utility originally requested.[9] Successful oversight of EEI dues has faded away in other states. The independent review of industry association dues that was once provided by NARUC has

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[7] New York Times, "Utility Group Criticized on Funds for Lobbying" available at http://www.nytimes.com/1984/07/21/business/utility-group-criticized-on-funds-for-lobbying.html

[8] Florida Public Service Commission Order (No. 10306, 1981) available at https://www.documentcloud.org/documents/3141815-Florida-Public-Service-Orders-on-Industry.html#document/p27/a322247; (No. 13537, 1984) available at https://www.documentcloud.org/documents/3141815-Florida-Public-Service-Orders-on-Industry.html#document/p158/a327132

[9] Proposed Decision before the Public Utilities Commission of the State of California (Docket 14-08-032) available at https://www.documentcloud.org/documents/3239245-COMPENSATION-to-TURN-for-SUBSTANTIAL.html#document/p8/a331970

been replaced by an unreliable system of self-reporting by EEI and its utility members, both of whom have an obvious self-interest in maximizing the amount of their dues that will be paid by ratepayers.

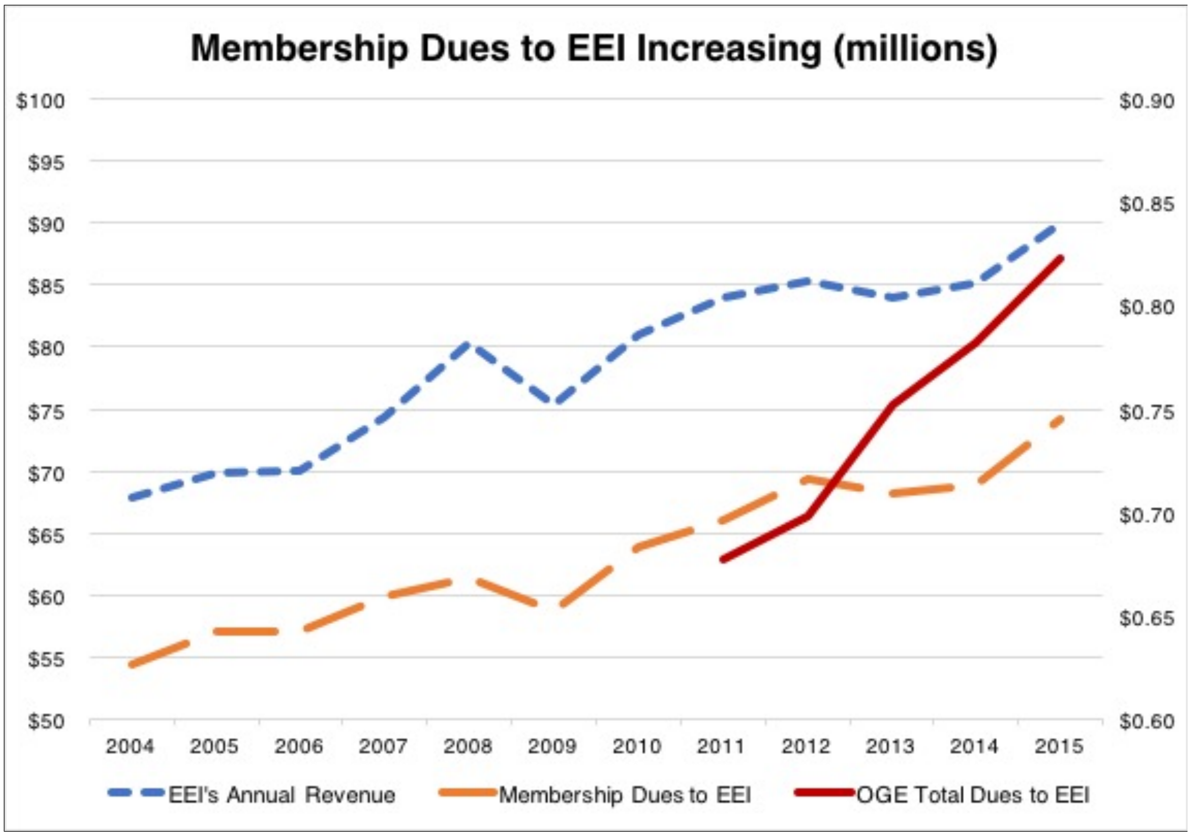
Recommendations

Precedent exists for public officials to determine the percentage of EEI's work that is benefiting ratepayers or utility company shareholders. The following recommendations would help protect ratepayers from funding utilities' political association memberships:

1. Public utility commissioners and their staff should place the burden of proof on utilities to demonstrate the exact percentage of customer money provided to industry groups and other political organizations, including EEI, that benefits their own ratepayers. This is not a recommendation for commissioners to indiscriminately disallow all EEI dues, as certain EEI programs such as storm response coordination may indeed benefit ratepayers. However, utilities should have to disclose the exact benefits that their political industry associations confer to ratepayers for each of their activities in detail. It is insufficient for utilities to only file an annual invoice from an organization that notes the self-determined lobbying percentage as guidance for commissions to determine the appropriate amount charged to ratepayers.
2. Consumer advocates and other parties whose mission is to protect ratepayers, such as attorneys general, should file for discovery in order to receive additional documents to have a better understanding of how a utility company works with their trade associations, and whether that work benefits ratepayers.
3. The National Association of Regulatory Utility Commissioners (NARUC) should revive the Committee on Utility Association Oversight and audit EEI, NEI, and AGA to determine the percentage of their operations which are political in nature and therefore ought not to be funded by ratepayers.
4. NARUC should compile a survey that shows the percentages of dues utility ratepayers are paying to industry organizations and political party focused groups; particularly (though not limited to) EEI; American Gas Association (AGA); Nuclear Energy Institute (NEI); U.S. Chamber of Commerce; Democratic Governors Association; and Republican Governors Association. Once completed and then published, this manual can help utility accounting staff across the country manage the challenges associated with determining industry association dues during rate requests. This report reveals only examples and is not exhaustive.

I. EEI's Revenue, Expenses, Actions - and Why Ratepayers Shouldn't Be Paying for It

Regulated utilities are subject to federal and state rules that are supposed to protect ratepayers from paying for efforts to influence policy and legislation, either by the utilities or their trade associations. However, independent and regulatory oversight of EEI's budget and activities has declined over time and it's worth renewing the question of what exactly ratepayers are paying for when they fund EEI's political and public relations machine.



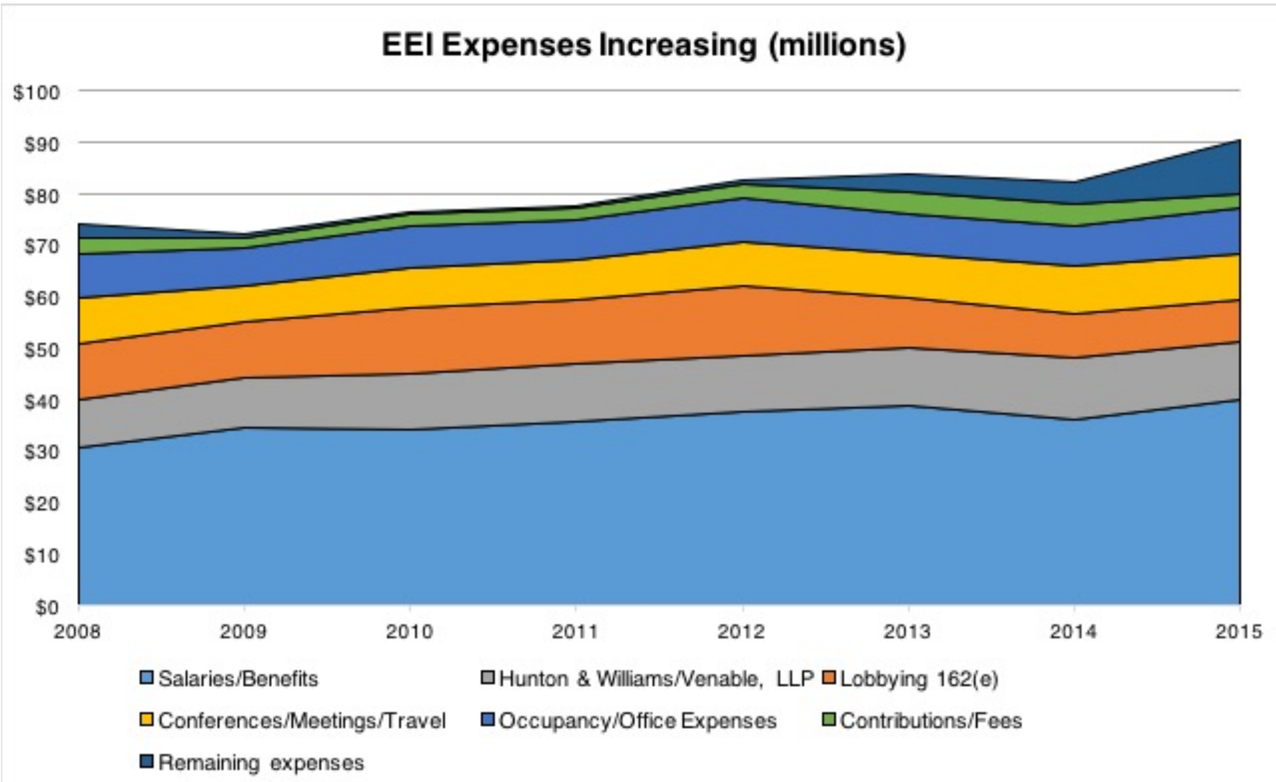
The latest IRS Form 990 filed by EEI reveals that the trade association received a total of $90 million in revenue and spent that amount as well.[10] Membership dues comprise $74 million of EEI's revenue, or 82%, the highest percentage since 2004, which suggests that the amount of EEI dues utility companies recover from their ratepayers has also grown over the past decade. For example, invoices from EEI to Oklahoma Gas and Electric Energy Company that were submitted to the Arkansas Public Service Commission reveal member dues increasing every year from 2011 to 2016 - a total of 26% over that timespan.[11] Additionally, Florida

[10] Edison Electric Institute 2015 Form 990 available at https://www.documentcloud.org/documents/3226570-2015-EEI-990.html

[11] Edison Electric Institute invoices to OGE Energy Corp available at https://www.documentcloud.org/documents/3380957-OGE-Energy-2011-to-2016-EEI-Dues.html

Power & Light recovered about $1,450,000 in annual EEI dues from ratepayers in 2008 and is on track to recover more than $2,450,000 in 2018 - a million dollar annual increase.[12]

With the increase in revenue, EEI's expenditures have grown. Salaries and benefits for employees at the trade association make up $40 million, 44% of all expenses, and up from $30 million in 2008. The uptick in salary expenditures could be the result of an increase in executive salaries.



The most recent notable executive hire is former Federal Energy Regulatory Commissioner (FERC) Philip Moeller as a senior vice president. Because Moeller was hired at the beginning of 2016, his salary is not listed in the latest 990.[13] President Thomas Kuhn made $4.1 million in 2015, up from $1.2 million in 2004, and is ranked among the nation's highest paid industry association executives.[14] David Owens, the executive vice president for business operations and regulatory affairs who recently retired, and Brian Wolff, executive vice president for public

[12] Florida Power & Light New Operating Income Schedules and Cost of Capital Schedules (Docket No. 080677-EI) available at http://www.psc.state.fl.us/library/filings/09/02333-09/02333-09.pdf; Florida Power & Light Industry Association Dues (MFR C-15 draft) available at https://drive.google.com/file/d/0B-0ZwtRThY3LVjRjSVVPTjZ6N28/view

[13] Edison Electric Institute, "Phil Moeller Joins EEI as Senior Vice President" available at http://www.prnewswire.com/news-releases/phil-moeller-joins-eei-as-senior-vice-president-300200725.html

[14] CEO Update, "Inside Compensation: CEO salaries at large associations 2016" available at https://www.ceoupdate.com/articles/compensation/inside-compensation-ceo-salaries-large-associations-2016-top-paid

policy and external affairs, made $1.5 and $1.2 million in 2015, respectively, each having received a raise of over $300,000 since 2010.[15]

As a registered 501(c)(6) business league, EEI must detail on its annual IRS Form 990 its highest paid consultants, expenses for travel, meetings and conferences, and contributions to other organizations including Section 527 political groups such as the Democratic Governors Association or the Republican Attorneys General Association. Also because it is a 501(c)(6), EEI must report an annual aggregate amount of lobbying and political expenditures, which is all nondeductible, and notify all members of the nondeductible portion of those dues.[16] During rate cases, utilities sometimes produce EEI invoices that self-report the portion of their payments for dues and various programs that go toward the nondeductible portion of lobbying and political expenditures. At the beginning of 2015, for example, EEI told member companies that it estimated lobbying expenses for the year to be only 13% of membership dues and 25% for a significantly smaller requested amount of money that went toward an “Industry Issues” line item separate from general dues.[17] Usually this sort of disclosure occurs when a utility is required by another party in the case to provide evidence that it is not charging ratepayers for EEI’s lobbying. In other cases, utilities are not required to provide even this minimal form of transparency, which puts their ratepayers at risk of being charged for lobbying as EEI itself defines it to the IRS.[18] Nevertheless, the data on the 990s reveal that from 2004 through 2015 EEI expensed a total of $130.6 million for nondeductible lobbying and political expenditures, which is an average of just 14% of its total expenses during that time period ($909.8 million), and an average of 17% of total dues from its members ($759.4 million).

However, EEI engages in and incurs expenses for a host of other political activities that are beyond the set of costs that are categorized as nondeductible section 162(e) dues. In fact, as detailed later in the report, the National Association of Regulatory Utility Commissioners had been auditing EEI data until the early-2000s. One of the final audits from NARUC revealed that 50% of EEI’s expenditures went to the following categories: legislative advocacy; regulatory advocacy; advertising; marketing; public relations; legislative policy research; regulatory policy research. All of these are expenditures that should not be paid for by customers.

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[15] Edison Electric Institute 2010 Form 990 available at https://www.documentcloud.org/documents/1375241-2010-eei-990.html

[16] IRS, “Nondeductible Lobbying and Political Expenditures” available at https://www.irs.gov/pub/irs-tege/notice_1333.pdf

[17] Northern Indiana Public Service Company, Edison Electric Institute Dues, (MSFR1-5-8(a)(2)(A) available at https://www.documentcloud.org/documents/3111262-Northern-Indiana-Public-Service-Company-Invoices.html#document/p204/a318825

[18] Appalachian Power Company and Wheeling Power Company Cost of Service (CAD 1 J-03) available at https://www.documentcloud.org/documents/3224308-Appalachian-Power-AEP-Membership-Dues.html#document/p42/a330971

Despite the relatively small amounts documented as "political expenditures and lobbying" in its 990, EEI annual reports provided to members boast of the "results" the trade association says it achieved, almost all of which appear entirely political in nature. The objectives include working to increase utilities' returns on equity, providing more venues for lobbyists to gain access to regulators, weakening EPA regulations under the Clean Air and Water Acts, and undermining policies supportive of distributed renewable energy resources, among other explicitly political endeavors. In fact, documents handed out at the 2016 annual EEI CEO meeting revealed some of the specifics of what the trade association tells its members it has achieved in 2015 and its goals for 2016.[19] The objectives include reforming electric rates and advocacy for increased fixed and demand charges, while other priorities deal with EPA regulations, tax issues, litigation efforts, and outreach activities to "minority and community organizations." Some of these expenses might fall under what EEI self-reports as lobbying to its members, but many of them likely would not.

More examples of EEI's achievements from internal documents

- "EEI engaged in extensive advocacy and outreach to EPA and other stakeholders throughout EPA's Clean Power Plan rulemaking" that included a "phase-in of emission reductions over the entire length of the program … two-year delay in implementation … ability for states to shape their own glide paths … and a less stringent standard for new coal-based units."
- EEI continued its "multi-state effort and in coordination with member companies" to increase fixed charges and roll back net metering. Among the efforts, EEI:
  - "Engaged with state policymakers, consumer advocates, and other key stakeholders"
  - "Rebalanced the public conversation through extensive earned media efforts at the national and state levels"
  - "Convened member companies, state policymakers, and consumer advocates through the Critical Consumer Issues Forum to develop consensus principles on the evolving distribution system"
  - "Deployed a team of EEI and third-party experts to engage in state proceedings, forums, earned media, policy conversations, and earned media"
  - "Partnered with First Solar and The Brattle Group to conduct and promote a study highlighting the economic and environmental benefits of utility-scale solar compared to rooftop solar"
  - "Focused on increasing awareness of consumer education and protection issues"

[19] Edison Electric Institute 2015 Results In Review available at http://big.assets.huffingtonpost.com/eeibooklet.pdf; 2016 EEI Corporate Goals available at http://big.assets.huffingtonpost.com/eeigoal.pdf

    - “Advocated for a reduction in aggregate rate subsidies to DG solar and for residential rate reform to encourage rate designs that are based on cost-of-service”
- “Advocated that any new ozone standard” be at the “top range” of the proposal from EPA
- “Participated in Supreme Court litigation to help clarify the line between federal and state jurisdiction over electric rate matters”
- “Through We Stand For Energy, EEI continues to educate and unite more than 250,000 electricity consumers and stakeholders across the country and to advocate for smart energy solutions that ensure electricity remains safe, reliable, affordable, and increasingly clean”
- “EEI continued to educate lawmakers about industry priorities for comprehensive tax reform, including normalization, the treatment of excess deferred taxes, corporate and dividend tax rates, the phase-down of subsidies, and the deductibility of interest on corporate debt”
- “EEI successfully advocated for the inclusion of several end-user protections in the House-passed version of the Commodity Exchange Act reauthorization bill and continued to educate the Senate on these issues”
- “EEI supported provisions” in the House passed broad energy bill, including language that:
    - “Make incremental reforms to the federal permitting and licensing process for natural gas pipelines and hydro facilities”
    - “Repeal the ban on the use of fossil-fueled energy in federal buildings”
- “EEI’s PowerPAC continues to create opportunities to educate members of Congress on key industry issues. In 2015, PowerPAC hosted or co-hosted more than 120 political events for federal elected officials and candidates, and raised more than $2 million for their campaigns”
- “Engaged in congressional efforts to require the EPA and the Army Corps of Engineers to withdraw, narrow, and re-propose the final waters of the U.S. rule. EEI also supported UWAG participation in litigation over the rule”
- “EEI provided support to Western Electricity Coordinating Council stakeholders for developing a contract-based funding mechanism for Peak Reliability, which was approved in June”
- “EEI educated NARUC on key industry issues, and conducted educational dialogues for state regulators with Northwestern, Tulane, and New Mexico State Universities”
- “EEI’s ongoing Wall Street/Regulator Dialogues educated regulators and consumer advocates on key industry issues, including capital expenditures that highlight record-high investments in the grid”
- “EEI-sponsored dialogues and forums brought together FERC commissioners, state policymakers, consumers, Wall Street analysts, and industry leaders to discuss key issues facing the industry”

- "EEI established new strategic partnerships with key state- and community-based organizations to further educate stakeholders and elected officials on the value of the grid and other industry and consumer priorities"
- "Launch of a national education and advocacy strategic initiative to highlight the industry's transformative leadership and to create a heightened awareness of and appreciation for member company initiatives"
- Develop "industry positions on the regulatory treatment of energy storage"
- "Expand collaboration and outreach to achieve enhanced support for utility-sponsored programs, products, and services on both sides of the meter"
- "Continued advocacy at the CFTC and Congress that builds on efforts to reduce the regulatory burden of the Dodd Frank Act on derivative end users"
- "Ongoing focus on wholesale energy market price formation issues"
- "Continued advocacy for industry priorities in comprehensive tax reform"
- "Continued work with Congress and the IRS related to the implementation of the Cadillac Tax"
- "Ongoing advocacy for compensatory returns on equity"
- Engage FERC with regards to PURPA implementation
- "Continued Growth and effective use of We Stand For Energy"
- "Development of a 2016 Political Party Convention Program and voter education effort"
- "Expand outreach to regional and state forums, minority and community organizations, regulatory staffs, and academic institutions"

Additionally, a recent filing by NV Energy details the years 2012 and 2013 accomplishments that EEI achieved for its members, and what it was hoping to attain and spend time pursuing during those years[20]:

- "Through the multi-faceted Defend My Dividend campaign, secured permanent parity between the tax rates for dividends and capital gains"
- "Advocated that coal ash be regulated as non-hazardous"
- "Secured favorable pension funding stabilization provision in legislation"
- "Secured a FERC policy statement that continues the favorable incentives policy for qualifying transmission projects, including ROE adders"
- "Continued outreach to state-level policymakers and consumers through the Critical Consumers Issues Forum and other forums"
- "EEI continues to advocate for equitable distributed generation and net metering policies that end cost shifting and ensure all electricity customers pay their fair share toward the cost of the grid. Among our efforts, EEI:

[20] NV Energy Response to Data Requests, Public Utilities Commission of Nevada, available at https://www.documentcloud.org/documents/3242975-NV-Energy-Dues-with-EEI-Letter-to-CEOs.html#document/p7/a332460

  - “Launched a multi-faceted industry-wide campaign calling for net metering updates in the states”
  - “Conducted national public onion research and polling to guide messaging and collateral development”
  - “Published A Policy Framework for Designing Distributed Generation Tariffs to advocate for appropriate DG resources”
  - “Commissioned third-party studies and assembled experts to engage in state proceedings/forums”
  - “Worked to educate member companies and key constituents through Webinars, meetings, and forums”
  - “Released, through IEE, an issue brief: The Value of the Grid to DG Customers”
  - “Convened three regional summits and participated in the Critical Consumer Issues Forum consisting of state commissioners, consumer advocates, and EEI member companies”
  - “Created a members-only Internet workroom and online toolkit of research and advocacy resources”
  - “Worked to secure favorable resolutions or statements from several national and state policy organizations”
- “EEI is educating lawmakers about industry priorities for comprehensive tax reform, including normalization, the treatment of excess deferred taxes, corporate and dividend tax rates, and the deductibility of interest on corporate debt”
- “Through a new white paper and outreach to FERC, NARUC, and the media, EEI is seeking compensatory returns on equity (ROEs) that reflect the risks of development and the long asset life of transmission facilities”
- “EEI continues to deploy its smart grid third-party experts to assist member companies in addressing data privacy, radio frequency, and opt-out issues”
- “EEI’s ongoing Wall Street regulatory dialogues educated regulators and consumer advocates on DG and net metering issues, as well as the importance of full rate recovery and reasonable ROEs to support the capital expenditures involved in the build-out of utility infrastructure and environmental compliance”
- “In support of APS, achieved a fixed charge for rooftop solar customers in Arizona to support the grid”
- “EEI led the development of industry comments on EPA’s proposed effluent limitations guidelines rule, advocating for flexibility and the use of cost-effective and feasible technologies”
- “EEI hosted an October External Affairs Conference for member company federal, state, and local government affairs representatives to discuss advocacy tools and strategies”
- “EEI educated NARUC on key industry issues; this outreach culminated in several positive resolutions”

- "Fundamental corporate tax reform, including the treatment of normalization, excess deferred taxes, deductibility of debt interest, and corporate and dividend tax rates"
- "Regulatory pushback on authorized returns and CAPEX programs"

Many of the industry's achievements are results of EEI staff doing work that is not technically considered nondeductible, but is certainly political in nature by any reasonable definition. Furthermore, the intended benefit of these actions is to benefit the shareholders of its members and to assist members with their own efforts to benefit shareholders. In fact, when EEI began its multi-state effort and coordination with member companies to address declining sales and the increase usage of distributed generation, it is clear that its members leapt into action. EEI gave a presentation to member CEOs in 2012 regarding the threats to the industry's earnings, and what groups to target to achieve favorable policies.[21] Then in 2013, EEI released a report that said threats to the business model can be "partially addressed" by implementing fixed or demand charges.[22] Utility companies have subsequently filed requests to increase fixed charges and implement demand charges at alarming rates, despite the fact that these charges harm low-income ratepayers.[23] The latest data, compiled by the N.C. Clean Energy Technology Center, shows that in 2016, utilities made 71 requests in 35 states plus D.C. to increase fixed charges on all residential ratepayers by at least 10%.[24]

In addition to its political activities, EEI funds domestic organizations, consultants, and lawyers that are also conducting work that benefits utility company shareholders. Consistent beneficiaries of EEI money over the years have been Hunton & Williams LLP and Venable LLP. Hunton & Williams is the counsel for the Utility Air Regulatory Group (UARG), Utility Water Act Group (UWAG), and Waters Advocacy Coalition (WAC). Venable represents the Utilities Solid Waste and Activities Group (USWAG). Since 2008, Hunton & Williams has received $64.7 million from EEI and Venable has received $21.5 million.

In a comment to the EPA, UARG described itself as a "not-for-profit association of individual electric generating companies and national trade associations that participate on behalf of its members collectively in administrative proceedings under the Clean Air Act ("CAA"), and in

[21] Washington Post, "Utilities wage campaign against rooftop solar" available at https://www.washingtonpost.com/national/health-science/utilities-sensing-threat-put-squeeze-on-booming-solar-roof-industry/2015/03/07/2d916f88-c1c9-11e4-ad5c-3b8ce89f1b89_story.html?utm_term=.4e1f3778a566

[22] Edison Electric Institute, "Disruptive Challenges" available at http://www.eei.org/ourissues/finance/documents/disruptivechallenges.pdf

[23] Synapse Energy Economy, "Caught in a Fix" available at http://consumersunion.org/wp-content/uploads/2016/02/Caught-in-a-Fix-FINAL-REPORT-20160208-2.pdf

[24] NC Clean Energy Technology Center, "The 50 States of Solar Report: 2016 Annual Review and Q4 Update" available at https://nccleantech.ncsu.edu/the-50-states-of-solar-report-2016-annual-review-and-q4-update/

litigation arising from those proceedings, that affect electric generators."[25] However, UARG does not have a website and it is not clear what this organization does besides lobbying the EPA, suing the EPA or researching and preparing for suits against the EPA. UARG rejects inquiries about its membership and operation activity from the media.

USWAG does have a website. It describes itself as "the trade association of over 110 utility operating companies, energy companies and industry associations, including the Edison Electric Institute, the National Rural Electric Cooperative Association, the American Public Power Association, and the American Gas Association."[26] Its stated mission is to engage in regulatory advocacy pertaining to the Resource Conservation and Recovery Act, Toxic Substances Control Act, and Hazardous Materials Transportation Act.

An examination of UARG, UWAG, WAC, and USWAG actions reveals that these collective bodies were involved with rules to reduce mercury, pollution affecting regional haze, and carbon dioxide, the Clean Water Act, and EPA's classification that coal ash is non-hazardous.

A 2015 letter from EEI to member CEOs stated that only 6.2% of USWAG expenditures was used to influence legislation for the 2014 calendar year while 68.8% of WAC expenses was devoted to nondeductible actions. The EEI letter did not detail any UARG or UWAG expenditures.[27] Yet, Northern Indiana Public Service Company (NIPSCO) adjusted all 2014-2015 UARG payments through their EEI dues to reflect that they were used for lobbying purposes.[28] The decision by NIPSCO follows an adjustment by Tucson Electric Power (TEP) from 2008 when it also noted that 100% of UARG dues were devoted to nondeductible activities. The Arizona Corporation Commission staff recommended that these expenditures not be borne by ratepayers.[29] However, in November 2016, Kentucky Utilities Company allocated $148,785 for "EEI UARG" as a general expense to be paid for by its ratepayers, as did Wisconsin Electric Power Company for its 2015 UARG dues through EEI.[30]

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[25] Comment submitted by Lucinda Minton Langworthy, Counsel, Hunton & Williams on behalf of the Utility Air Regulatory Group, available at https://www.regulations.gov/document?D=EPA-HQ-OAR-2013-0572-0161

[26] About USWAG, available at http://www.uswag.org/About/Pages/default.aspx

[27] Edison Electric Institute March 15, 2015 letter available at https://www.documentcloud.org/documents/3244482-Centerpoint-Energy-Dues.html#document/p35/a332623

[28] Northern Indiana Public Service Company Edison Electric Institute Dues, (No.44688) available at https://www.documentcloud.org/documents/3111258-Northern-Indiana-Public-Service-Company-Dues.html#document/p107/a331762

[29] Arizona Corporation Commission Application of Tucson Electric Power Company (No.E-01933A-07-0402) available at https://www.documentcloud.org/documents/3284782-ACC-Transcript-EEI-Dues-2008.html#document/p117/a334770.

[30] Kentucky Utilities Company Miscellaneous General Expenses (No.2016-00370) available at https://www.documentcloud.org/documents/3284802-Kentucky-Utilities-Company-Rate-Request-Response.html#document/p566/a334597; Wisconsin Electric Power Company Industry Association Dues available at https://www.documentcloud.org/documents/3290885-Wiconisn-Electric-Power-Company-2012-2013-2015.html.

Besides Hunton & Williams and Venable, some of the largest and some of the most controversial recipients of EEI money over the years include:

Sample of EEI's Contributions to Consultants and Organizations (2008-2015)			
Daniel J. Edelman (Edelman PR)	$1,774,305	American Legislative Exchange Council	$142,667
NetCommunications	$750,599	National Conference of State Legislators	$125,931
Thomas Alva Edison Foundation	$630,604	Third Way	$100,000
Republican State Leadership Committee	$255,000	Americans For Tax Reform	$75,000
Democratic Governors Association	$205,000	National Black Chamber of Commerce	$25,000
National Labor and Management Public Affairs Committee	$185,400	State Policy Network	$10,000
Congressional Black Caucus/Foundation	$185,400	Committee for a Constructive Tomorrow	$8,000
U.S. Chamber of Commerce	$180,050	Americans For Prosperity	$7,500

Several of the groups listed in the table are controversial because of their work to influence decision makers and the public. For instance, the Republican State Leadership Committee uses its resources to get more Republicans elected to state legislatures and utility commissions, while the Democratic Governors Association is dedicated to helping Democrats win gubernatorial races. These contributions are likely considered nondeductible, but donations to 501(c)(3) groups are likely getting expensed by ratepayers through their utilities. The American Legislative Exchange Council (ALEC), a 501(c)(3), provides state legislators with so called "model policies" used in attempts to roll-back state laws requiring utilities to increase their use of renewable energy and reduce their carbon dioxide emissions.[31] EEI has continued to fund ALEC even as some of its member utilities have quit over ALEC's controversial attacks on clean energy policies. Meanwhile, the National Black Chamber of Commerce President and CEO Harry Alford, another (c)(3) group, regularly testifies or writes

[31] Mother Jones, "ALEC's Campaign Against Renewable Energy," available at http://www.motherjones.com/environment/2013/12/alec-calls-penalties-freerider-homeowners-assault-clean-energy; PBS Newshour, "Has Exxon Mobil misled the public about its climate change research?" available at http://www.pbs.org/newshour/bb/exxon-mobil-mislead-public-climate-change-research/

columns advocating against environmental regulations, and Americans For Prosperity actively runs political campaigns to build opposition against climate change and renewable energy legislation.[32]

Some of EEI's contributions fund conference sponsorship, which helps EEI buy influence and access to decision makers or to organizations that can sway decision makers. In fact, audio released in March 2017 revealed EEI's director of external affairs, Todd Wynn, speaking on a panel at the State Policy Network conference, another (c)(3), enlisting third-parties to help the industry implement more fixed charges.[33] These conferences and events are also opportunities for EEI to make sure its objectives are achieved. Emails between EEI and New Mexico State University Center for Public Utilities reveal that EEI's Elizabeth Stipnieks, director of regulatory relations, helped choose speakers and the agenda for conferences attended by regulators and agency staffers.[34]

In April 2016, documents surfaced showing that EEI had hired a public relations/crisis communications firm, Maslansky + Partners (also listed as an EEI Associate Member) to rebrand the electric utility industry and overcome the negative perceptions consumers have about the lack of progress utilities have made on renewable energy and environmental issues.[35] Thomas Fanning, the CEO of Southern Company and chairman of EEI, hailed the resulting "Lexicon Project" as an opportunity for utilities to assume an "offensive posture" on energy policy.[36] A presentation and discussion occurred at the January 2016 CEO Board Meeting in Arizona. This event is an example of a public relations expense that is aimed primarily at helping member companies achieve their political goals at all levels of government, and simultaneously counter the negative publicity that occurs when companies file for rate increases or propose new fees.

Utilities are already incorporating the recommendations that Maslansky + Partners made to the CEOs into company statements in an effort to change the public's attitude; one element of the Lexicon advised rebranding utility-scale solar as "universal solar." Rooftop solar would be

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32 Congressional Hearing "Reality Check: The Impact and Achievability on EPA's Proposed Ozone Standard" Presented by Harry Alford available at http://docs.house.gov/meetings/SY/SY00/20150317/103159/HHRG-114-SY00-Wstate-AlfordH-20150317.pdf; Environment America, "Blocking the Sun" available at http://www.environmentamerica.org/reports/ame/blocking-sun

33 UtilitySecrets "Audio: Edison Electric Institute Director of External Affairs Enlists Third-Parties To Help Attack Rooftop Solar" available at http://www.utilitysecrets.org/edison-electric-institute-state-policy-network-attack-rooftop-solar/

34 Energy and Policy Institute, New Mexico State University Center for Public Utilities, available at http://www.energyandpolicy.org/utility-industry-influence-at-universities/new-mexico-state-university-center-for-public-utilities/

35 Huffington Post, "This Messaging Guru Is Helping Utilities Clean Up Their Appearance" available at http://www.huffingtonpost.com/entry/messaging-utilities-solar-power_us_56f45cd6e4b014d3fe22b572

36 E&E News "Southern's Fanning sees his industry driving U.S. economic success" available at http://www.eenews.net/stories/1060040248

reframed with the term "private solar." The new vocabulary is trickling into EEI member utilities' statements:

- Eric Silagy, president and CEO of Florida Power & Light, used the term "private solar" when endorsing a controversial ballot initiative in Florida, which would have opened the door to rolling back net metering incentives for rooftop solar if it had passed.[37]
- American Electric Power Chairman, President and CEO, Nick Akins, used the term "universal solar" in an interview; AEP has also staked out a position that "large-scale universal solar is a better alternative to private solar."[38]
- Public Service Electric and Gas Renewables and Energy Solutions Vice-President Courtney McCormick, used the term "universal solar" in an article about the utility constructing 33 megawatts of solar over the next three years;[39]
- Rocky Mountain Power External Communications Director, Paul Murphy, used the term "universal solar" in a letter to the editor about how the company embraces solar energy.[40]

All of these examples demonstrate the need for more oversight in order to better understand whether or not the portion of utilities' payments to EEI that are ultimately paid by ratepayers are used to pay for political and public relations activities that provide no clear customer benefit.

II. Utility Companies Charging Ratepayers for EEI Dues

Each state utility commission determines whether ratepayers or shareholders should pay for membership dues differently, and each utility, including utilities in the same state, follows different procedures for reporting.

[37] Florida Politics, "Eric Silagy: Florida Power & Light endorses solar amendments; urges optimism about clean energy in Florida" available at http://floridapolitics.com/archives/220533-eric-silagy-florida-power-light-endorses-solar-amendments-highlights-floridas-clean-energy-progress

[38] The Columbus Dispatch, "AEP wants to lead Oho solar-power development" available at http://www.dispatch.com/content/stories/business/2016/04/26/aep-wants-to-lead-ohio-solar-power-development.html; AEP Universal Solar available at https://www.aepsustainability.com/business/innovation/solar.aspx

[39] Power-Technology "PSE&G receives approval from NK BPU to extend Solar 4 All program" available at http://www.power-technology.com/news/newspseg-gets-approval-from-nk-bpu-to-extend-solar-4-all-programme-5685927

[40] The Salt Lake Tribune, "Letter: Rocky Mountain Power moves ahead on solar power" available at http://www.sltrib.com/opinion/4248822-155/letter-rocky-mountain-power-moves-ahead

For instance, a document filed by Southern Company's subsidiary Georgia Power details its 2016 dues to EEI.[41] The filing reveals that the amounts that are coded to "426.4" and "930.2." The codes are from the Federal Energy Regulatory Commission (FERC) accounting code. The appendix of this report explains in more detail the different FERC codes. In short, 426.4 is used for expenditures that are for lobbying and influencing public opinion and public officials. These amounts should be charged to shareholders. Account 930.2 is used for miscellaneous general expenses and typically includes industry association dues. Amounts coded to 930.2 are generally charged to ratepayers. In this instance, Georgia Power proposed $698,521 of EEI dues to be charged to its ratepayers, and $290,481 to shareholders - a 71% to 29% split.

Allocation of Southern Company 2016 EEI Dues to Georgia Power Company

	2016
Minimum Dues	$0
Remainder of Regular Dues	$881,534
Total Regular Dues	$881,534
Industry Structure Assessment	$92,705
Mutual Assistance Program	$2,109
The Edison Foundation - Contribution	$12,653
Total EEI Dues Allocated to Georgia Power	$989,002

Industry Structure Assessment Related to Lobbying	35.00%	426-40000	Lobbying and Related Expenses - BTL	$32,447
Remaining Industry Structure Assessment	65.00%	426-50000	Other Miscellaneous Business Expenses - BTL	$60,259
The Edison Foundation - Contribution	100.00%	426-10030	Donations - BTL	$12,653
Portion of Regular Dues allocated to Lobbying	21.00%	426-40000	Lobbying and Related Expenses - BTL	$185,122
Portion of Regular Dues allocated to Advertising*	2.30%	930-10180	Industry Sponsored Advertising Costs - ECAP - ATL	$20,275
Remaining Regular Dues and Mutual Assistance Program	76.70%	930-20200	Association Dues and Assessments - ATL	$678,246
				$989,002

*Estimate based on actual advertising expenditures.

A document filed in March 2016 by a public utility auditor for the Oklahoma Corporation Commission (OCC) shows the EEI dues Oklahoma Gas and Electric proposed to have its ratepayers in Oklahoma pay: $670,609.[42] The OCC auditor appears to have allowed 100% of that amount.

[41] Georgia Power Company Allocation of EEI Dues available at https://www.documentcloud.org/documents/3237843-Georgia-Power-Dues-to-Edison-Electric-Institute.html#document/p7/a331581

[42] Oklahoma Gas and Electric Disallowance in Civic Dues & Community Activities Expenses available at https://www.documentcloud.org/documents/3111578-Sharhonda-Dodoo-PUD-Testimony-OGE-Dues.html#document/p6/a318911

Table 1: Disallowance in Civic Dues & Community Activities Expense

Dues And Donation Description	Allocated Amount after Pro-Forma	Disallowed Percentage	Allowed Percentage	Disallowed Amount	Allowed Amount
Chambers Of Commerce Memberships	$140,161	50%	50%	$70,080.50	$70,080.50
Chambers Of Commerce Others	$14,167	50%	50%	$7,083.50	$7,083.50
Economic Development (proforma)	$0	N/A	N/A	$0	$0
EEI Membership	$670,609	0%	100%	$0	$670,609
Other Membership	$77,019	50%	50%	$38,509.50	$38,509.50
Professional Membership	$373,809	0%	100%	$0	$373,809
Sponsorship (Proforma)	$0	N/A	N/A	$0	$0
Grand Total	$1,275,765.00			$115,673.50	$1,160,091.50

Similarly, a Florida Power & Light spreadsheet submitted to the PSC shows the utility charged $2,290,051 for its EEI expenses under FERC "930" in 2015.[43] FPL also refers to its policy of recording expenses for lobbying, civic, political and related activities as "below the line" expenses, which means it is claiming that those expenses should be charged to shareholders. Because FPL does not disclose these expenses, the claim is impossible to verify.

Madison Gas & Electric (MGE) summarizes all of the association dues and corporate memberships by amount and FERC code. MGE asks for half of the total EEI dues for test year 2017 to be recovered in rates.[44] It appears the 50% charge to shareholders is a result of a 1985 decision that required the utilities to include only 50% of EEI dues in the test year income statement.[45] The memo also details what should be allocated for the American Gas Association and EEI's "U Groups."

[43] Florida Power & Light Rate Case Industry Association Dues available at https://drive.google.com/file/d/0B-0ZwtRThY3LVjRjSVVPTjZ6N28/view

[44] Madison Gas and Electric Company Detail Summary of All Industrial Association Dues, Corporate Memberships available at https://www.documentcloud.org/documents/3100475-Madison-Gas-and-Electric-Industrial-Association.html

[45] Public Service Commission of Wisconsin Departmental Correspondence available at https://www.documentcloud.org/documents/3459194-1985-Wisconsin-PSC-Memo-Association-Dues.html

Madison Gas and Electric Company
Information for Docket 3270-UR-121
Initial Data Request #61
Detail Summary of all Industrial Association Dues, Corporate Memberships, etc

Work Activity	Expensed in FERC	Description	Actual 2013	Actual 2014	Actual 2015	Test Year 2017 In case	Test Year 2017 *NRR	Test Year 2017 Total
2013	930	EEI dues	126,972	129,071	135,992	67,500	67,500	135,000
2045	930	Industry Organization Dues	175,253	204,599	264,985	70,000	-	70,000
2147	930	AGA dues	111,846	107,652	110,450	87,030	29,010	116,040
2024	930	WUA dues	57,546	44,266	41,585	25,000	25,000	50,000
2026	930	Various dues	32,779	59,260	43,585	3,480	40,500	43,980
2027	930	Various dues	25,287	16,377	18,570	-	15,000	15,000

* - NRR - Not Recoverable in Rates

PUBLIC SERVICE COMMISSION OF WISCONSIN

)EPARTMENTAL CORRESPONDENCE FILE NO.

February 11, 1985

TO: Accounts and Finance Audit Staff

FROM: Conrad A. Oleson, Administrator

SUBJECT: ASSOCIATION DUES - SUPERSEDES MY MEMO OF AUGUST 22, 1984 AND AUGUST 30, 1984

All dues listed below should be included in your test year income statements at the following levels:

USTA - 0%
WSTA - 90%
EEI - 50%
EPRI -100% - w/two conditions: 1) payment made directly to EPRI 2) payment made no earlier than when due
AGA - 50%
GRI -100%
WUA - 50%
EEI "U Groups" - 50%
AIF - 0%
Chamber of Commerce & Like Groups - 0%

However, Wisconsin Electric Power Company recently proposed to charge $728,712 to EEI (along with $223,804 to EEI for the Utility Air Regulatory Group) to its ratepayers, and

allocated only $217,668 of the total amount to EEI, 22.8%, to FERC Account 426.[46] The filing also shows a 30% increase of dues to EEI from 2012 to 2015 at the expense of Wisconsin Electric Power Company ratepayers.

WISCONSIN ELECTRIC POWER COMPANY	2015	2013	2012
Industry Association Dues			
930.2 Miscellaneous General Expense			
Edison Electric Institute	728,712	643,001	561,175
Edison Electric Institute-UARG	223,804	253,166	193,151
Michigan Electric & Gas Association	19,958	21,148	18,541
AGA	137,571	137,569	141,610
	1,110,045	1,054,884	914,476

In other dockets, utilities do not make clear what FERC accounts they are using for their trade association dues, such as in CenterPoint Energy's 2014 request of $606,847 for EEI.[47]

CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC
INDUSTRY DUES - SUMMARY
For the Year Ending December 31, 2014

DESCRIPTION	AMOUNT
E SOURCE COMPANIES LLC	$ 33,600
EDISON ELECTRIC INSTITUTE	606,847
EPRI	3,093,892
INDUSTRY COUNCIL ON THE ENVIRONMENT	500
SMART GRID CONSUMER COLLABORATIVE	10,000
SOUTHEASTERN ELECTRIC EXCHANGE INC	11,246
TEXAS A&M UNIVERSITY	10,000
UTILITIES TELECOM COUNCIL	20,000
Misc Items Under $500	495
TOTAL 2014 INDUSTRY DUES	**$ 3,786,580**

[46] Wisconsin Electric Power Company Industry Association Dues available at https://www.documentcloud.org/documents/3290885-Wisconisn-Electric-Power-Company-2012-2013-2015.html#document/p1/a334773

[47] CenterPoint Energy Houston Electric Charitable Contributions and Donations available at https://www.documentcloud.org/documents/3244482-Centerpoint-Energy-Dues.html

Filings by Indianapolis Power & Light and NV Energy reveal the total amount sent to EEI from the utility holding companies AES Corporation and Berkshire Hathaway Energy. The documents reveal the percentages the utility subsidiaries add to their operating expenses. In 2015, NV Energy's EEI dues were $661,673, of which 84% ($556,593) was allocated in FERC account 930 for ratepayers to pay. A total of $2.28 million was billed to Berkshire Hathaway Corporation by EEI.[48]

MEC, PacifiCorp, and NV Energy
2015 EEI Dues Calculation (NV Energy Portion)

Customers (excludes non-regulated)				
160,634	@ 0.243 =	39,034		
385,522	@ 0.095 =	36,625		
640,196	@ 0.087 =	55,697		
3 1,186,352			131,356	
Revenues				
580,008	@ 0.142287 =	82,528		
580,008	@ 0.083 =	48,141		
1,867,739	@ 0.061 =	113,932		
1 3,027,755			244,601	
Owned Generating Capacity				
801,381	@ 0.037 =	29,651		
1,869,889	@ 0.032 =	59,836		
4,600,729	@ 0.013 =	59,809		
2 7,272,000			149,297	
Total Dues (Fully Merged)				525,253
Adjustment for Merger Phase In				59,131

			Lobbying a/c# 426411	Balance a/c# 930264	Contributions a/c# 426131	Total
Regular Activities of EEI	584,385	13% lobbying	75,970	508,415		584,385
Industry Issues	58,438	25% lobbying	14,610	43,828		58,438
Restoration, Operations, and Crisis Management Program	4,350	0% lobbying		4,350		4,350
2015 Contribution to the Edison Foundation	14,500	charitable contribution			14,500	14,500
	661,673		90,580	556,593	14,500	661,673

Corporate Accounting
12/5/2014 10:45 AM

Page 4 of 4

w:\corpacct\int\2015 EEI Dues Calculation Check.xls

In 2014, the total invoice to AES Corporation was $1.077 million. The filing shows that AES removed 22% of EEI dues as legislative and charitable contributions, and then allocated 31.9% of the remaining funds to its Indiana subsidiary.[49]

[48] Sierra Pacific Power Company Edison Electric Institute dues available at https://www.documentcloud.org/documents/3235953-NV-Energy-Dues.html#document/p140/a331435

[49] Indianapolis Power & Light Edison Electric and Indiana Energy Association Dues available at https://www.documentcloud.org/documents/3100472-Indianapolis-Power-and-Light-Industry.html#document/p46/a318422

INDIANAPOLIS POWER & LIGHT COMPANY
Pro Forma Adjustment to Total Electric for EEI and IEA Dues
(Thousands of Dollars)

The following adjustment reflects a pro forma net decrease in dues expense for the Edison Electric Institute (EEI) and the Indiana Energy Association (IEA).

Line No.		(Col. 1)	(Col. 2)	Line No.
1	Total 2014 EEI dues for all AES U.S. utility subsidiaries	$ 1,077		1
2	Less: Portion attributable to legislative activities	(208)		2
3	Less: Portion attributable to charitable contribution	(30)		3
4	Net total EEI dues, excluding legislative and charitable portion	839		4
5	IPL's portion of 2014 EEI dues	31.90%		5
6	Pro forma 2014 EEI dues for IPL only		$ 268	6
7	Pro forma IEA dues (1)		-	7
8	Total pro forma EEI and IEA dues		268	8
9	Total EEI and IEA dues charged to electric operating expense for the twelve months ended June 30, 2014		661	9
10	Pro forma adjustment (See Schedule OM1)		$ (393)	10

(1) Recovery is not sought due to legislative activities.

In summary, utilities routinely recovery the majority of their EEI membership dues and program payments from ratepayers, even though EEI documents demonstrate that the organization's work is inherently political. The evidence warrants a thorough and independent review of EEI's budget and expenditures to ensure that ratepayers are not funding the utility industry's political agenda.

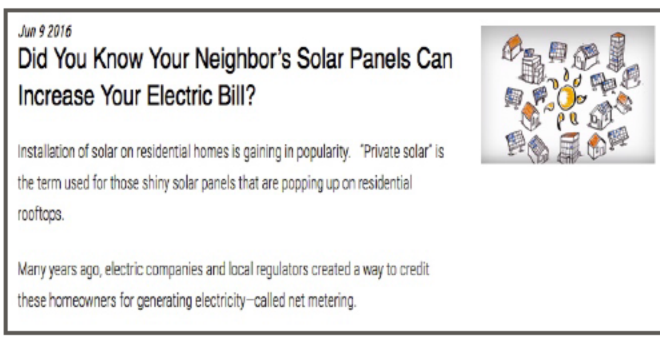
III. Other Political Organizations Receiving Ratepayer Money

Beyond EEI, utilities are charging ratepayers for their memberships in other inherently political organizations:

- Dominion and Duke Energy attempted to have ratepayers subsidize a portion of American Legislative Exchange Council dues and political party organizations in rate requests.

- Wisconsin Public Service also included political party organizations in a rate request.
- American Electric Power subsidiaries requested that ratepayers fund the American Coalition for Clean Coal Electricity and the Emerging Issues Policy Forum.
- Florida Power & Light, FirstEnergy, Oklahoma Gas & Electric, and Wisconsin Public Service added portions of U.S. Chamber of Commerce membership fees and asked for ratepayers to foot the bill.
- Pacific Gas & Electric, Madison Gas and Electric, Southern California Edison, and Wisconsin Public Service requested ratepayers pay for all or some of their American Gas Association dues.
- Dominion, Duke Energy, and Florida Power & Light requested ratepayers pay for Nuclear Energy Institute dues.

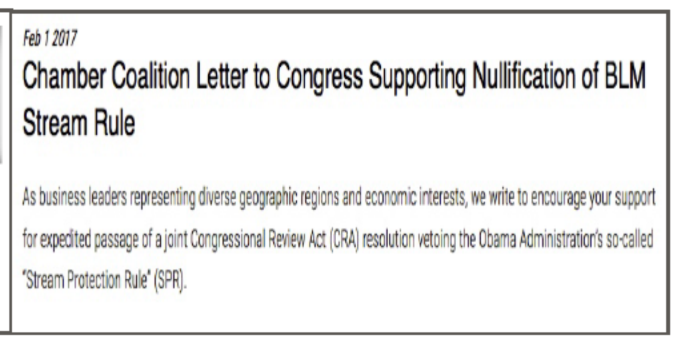
The FPL spreadsheet in the utility's rate request revealed that it included $63,000 to the U.S. Chamber of Commerce and an additional $157,000 earmarked to the U.S. Chamber of Commerce's Institute of 21st Century Energy in operating expenses.[50] The Chamber, which has also received EEI money, has been a leading voice against the EPA's Clean Power Plan and greenhouse gas emission regulations, ozone and fine particle regulations, vehicle emission standards, and rooftop solar policies.[51] The political powerhouse is also involved in political debates over health care, tax rates, labor policies, and immigration.


Jun 9 2016

Did You Know Your Neighbor's Solar Panels Can Increase Your Electric Bill?

Installation of solar on residential homes is gaining in popularity. "Private solar" is the term used for those shiny solar panels that are popping up on residential rooftops.

Many years ago, electric companies and local regulators created a way to credit these homeowners for generating electricity—called net metering.


Feb 1 2017

Chamber Coalition Letter to Congress Supporting Nullification of BLM Stream Rule

As business leaders representing diverse geographic regions and economic interests, we write to encourage your support for expedited passage of a joint Congressional Review Act (CRA) resolution vetoing the Obama Administration's so-called "Stream Protection Rule" (SPR).

The requests from Madison Gas and Electric and Wisconsin Electric Power Company also included "AGA," which is the American Gas Association, a leading voice for continued and increased use of fracking, and construction of natural gas infrastructure and power plants.

Dominion filed a rate request to the Virginia State Corporation Commission that included many political organizations, including the American Legislative Exchange Council (ALEC),

[50] Florida Power & Light Industry Association Dues available at https://drive.google.com/file/d/0B-0ZwtRThY3LVjRjSVVPTjZ6N28/view

[51] Institute for 21st Century Energy Policy Center available at http://www.energyxxi.org/issues

while noting what was below-the-line.[52] The amounts Dominion requested to be above and below-the-line defied logical explanation, because nearly all of the amounts to the Democratic Legislative Campaign Committee were listed below-the-line, while all of the money for the Republican Governors Association Board Membership was above-the-line. It's not clear why Dominion felt ratepayers should fund Republican political organizations but not Democrat organizations. Virginia Corporation Commission staff noted the incongruence and routed the ALEC and Republican party organization dues to shareholders.

VIRGINIA ELECTRIC AND POWER COMPANY
CASE NO. PUE-2015-00027
FOR THE TEST YEAR ENDED DECEMBER 31, 2014
ADJUSTMENT TO REMOVE LOBBYING AND OTHER MISCELLANEOUS UNRECOVERABLE EXPENSES
STAFF ADJUSTMENT NO. ET-13

SUPPORTING DOCUMENTATION

ing Date	Vendor	Total DRS Amount	Pct to VP	Bill to VP	Narrative Description	Total Bill to VP	Amounts Booked Below-the-line	Difference
6/02/2014	AMERICAN COUNCIL OF YOUNG POLITICAL	10,000	51.68%	5,168	ACYPL CORP. PTNRSHIP PROG	5,168		5,168
5/29/2014	AMERICAN LEGISLATIVE EXCHANGE	7,000	51.68%	3,618	Private Sector - Washington Club			-
8/05/2014	AMERICAN LEGISLATIVE EXCHANGE	7,500	51.68%	3,876	VA Delegation Night Sponsorship	7,494	6,987	507
5/16/2014	COUNCIL OF STATE GOVERNMENTS	3,500	51.68%	1,809	2014 Annual Meeting in MD	1,809	1,687	122
6/10/2014	DEMOCRATIC ATTORNEYS GENERAL ASSN	15,000	51.68%	7,752	2014 Leadership Circle Membership	7,752		7,752
6/05/2014	DEMOCRATIC GOVERNORS ASSN	25,000	51.68%	12,920	DGA Virginia Policy Conference Sponsor			-
5/29/2014	DEMOCRATIC LEGISLATIVE CAMPAIGN	25,000	51.68%	12,920	DLCC 2014 Leadership Council Membership	12,920	12,048	872
5/20/2014	DEMOCRATIC MUNICIPAL OFFICIALS	10,000	51.68%	5,168	2014 DMO Advisory Board Membership	5,168	4,819	349
6/19/2014	REPUBLICAN ATTORNEYS GENERAL ASSN	15,000	51.68%	7,752	2014 Attorneys General Committee	7,752		7,752
6/02/2014	REPUBLICAN GOVERNORS ASSN	50,000	51.68%	25,840	2014 RGA Governors Board Membership	25,840		25,840
5/6/2014	VA CHAMBER OF COMMERCE	65	58.76%	38	VA Chamber Board Meeting May 2014	38	6	32
	Subtotal DRS to DVP							48,394

Meanwhile, in North Carolina, Duke Energy filed requests to also include ALEC along with the Democratic Governors Association, the National Republican Club of Capitol Hill, and other political entities to be paid by ratepayers.[53] Consumer advocates and utility commission staff caught the effort. Duke Energy testified that this was an error and said "the filing was performed by human beings and no human being is perfect."[54]

[52] Virginia Electric and Power Company Adjustment to Remove Lobbying available at https://www.documentcloud.org/documents/3104630-Dominion-Dues-Appendix-B.html#document/p6/a320801

[53] Application of Duke Energy Carolinas for Adjustment of Rates, NC WARN testimony available at https://www.documentcloud.org/documents/3459599-NC-WARN-Testimony-Before-NCUC-2013.html#document/p10/a338017

[54] Application of Duke Energy Carolinas for Adjustment of Rates, Duke Energy testimony available at https://www.documentcloud.org/documents/3459595-Duke-Energy-Testimony-2013-Rate-Request.html#document/p83/a338018

Table 1: Partisan Political Sponsorships and Donations

Acct.	Partisan Political Sponsorships/Donations		DEC Direct
921200	SOUTH CAROLINA SENATE DEMOCRATIC CAUCUS		$2,500
923000	SOUTH CAROLINA SENATE DEMOCRATIC CAUCUS		$5,000
921200	SOUTH CAROLINA SENATE REPUBLICAN CAUCUS		$2,500
921200	REPUBLICAN STATE LEADERSHIP COMMITTEE		$25,000
921200	SC BUSINESS AND INDUSTRY POLITICAL		$5,000
921200	SC HOUSE REPUBLICAN CAUCUS		$2,500
921200	SC SPORTSMENS CAUCUS		$1,250
921200	SOUTH CAROLINA HOUSE DEMOCRATIC CAUCUS		$2,500
921200	SOUTH CAROLINA LEGISLATIVE BLACK CAUCUS		$1,750
921200	PALMETTO LEADERSHIP COUNCIL *		$2,500
921200	NORTH CAROLINA LEGISLATIVE BLACK CAUCUS		$10,000
		Duke Donations	Allocation from Duke
921200	DEMOCRATIC GOVERNORS ASSOCIATION	$100,000	$55,650
921200	DEMOCRATIC GOVERNORS ASSOCIATION	$200,000	$112,600
921200	CONGRESSIONAL BLACK CAUCUS FOUNDATION	$50,000	$27,825
921200	CONGRESSIONAL HISPANIC CAUCUS INSTITUTE	$20,000	$11,130
921200	NATIONAL REPUBLICAN CLUB OF CAPITOL HILL	$10,000	$5,630
	Total DEC:		**$273,335**

* Political Action Committee associated with the Republican House Speaker in in South Carolina

Table 2: Lobbying and Public Policy Organizations

	Lobbying and Public Policy Organizations		DEC Direct
921200	CAROLINA BUSINESS COALITION INC		$100,000
921100	AMERICAN LEGISLATIVE EXCHANGE COUNCIL		$2,500
921200	AMERICAN LEGISLATIVE EXCHANGE COUNCIL		$5,000
921200	AMERICAN LEGISLATIVE EXCHANGE COUNCIL		$12,500
921200	SOUTH CAROLINA MANUFACTURERS ALLIANCE		$4,000
921200	SOUTH CAROLINA MANUFACTURERS ALLIANCE		$3,133
921200	NORTH CAROLINA CHAMBER		$3,000
921200	NORTH CAROLINA CHAMBER		$10,000
921200	SC SPORTSMENS CAUCUS		$1,250
921200	SC BUSINESS AND INDUSTRY POLITICAL		$5,000
921200	SOUTH CAROLINA MANUFACTURERS ALLIANCE		$2,610
923000	NATIONAL FEDERATION OF INDEPENDENT BUSINESS		$5,000
923000	NATIONAL FEDERATION OF INDEPENDENT BUSINESS		$5,000
		Duke Donations	Allocation from Duke
	BUSINESS INSTITUTE FOR POLITICAL ANALYSIS	$5,000	$2,783
	BUSINESS INSTITUTE FOR POLITICAL ANALYSIS	$5,000	$2,783
	Total DEC:		**$164,557**

Wisconsin Public Service included several political party organizations, the U.S. Chamber of Commerce, and the American Gas Association in Account 930.[55]

WPSC Response:

Government Relations (HC A15) is the name of the department/home center that forecasts the industry association dues and memberships in account 930200 listed below:

2016 Test Year		Governmental Relations (A15)/ Memberships (RT 443)
$	399,000	Edison Electric Institute
$	8,085	Association of Edison Illuminating Companies
$	12,360	Midwest Energy Association (electric portion)
$	66,900	Wisconsin Utilities Association
$	500	State Bar of Wisconsin
$	4,100	Wisconsin Paper Council
$	15,900	North Central Electric Association
$	13,000	Wisconsin Manufacturers Association
$	8,339	Midwest Energy Association (gas portion)
$	92,392	American Gas Association
$	12,544	Republican Governors Association
$	5,376	Republican State Leadership
$	3,584	Democratic Governors Association
$	1,886	US Chamber of Commerce
$	720	Michigan Chamber of Commerce
$	**644,686**	**FERC Account 930200**

55 Wisconsin Public Service Corporation Government Relations/Memberships available at https://www.documentcloud.org/documents/3227546-Wisconsin-Public-Service-Corporation-Dues.html

Minnesota Power (Allete) included in its corporate dues several pro-coal entities and its UWAG membership.[56]

Corporate Membership Dues:	Actual 2015		Code:
EDISON ELECTRIC 2015 MEMBERSHIP DUES (EEI)	263,770	C	4
WESTERN COAL TRAFFIC	55,000	C	4
CLIMATE REGISTRY	6,600	C	4
BLOOMBERG	25,039	C	4
MONTANA COAL COUNCIL	4,000	C	4
MIDWEST RURAL ENERGY COUNCIL MREC	1,500	C	4
MINNESOTA PESTICIDE INFORMATION AND EDUCATION ORGANIZ/	1,000	C	4
MINNESOTA LOGGER EDUCATION PROGRAM	1,000	C	4
CEATI INTERNATIONAL INC - Utility Operations and Planning	27,300	C	4
CENTER FOR ENERGY WORKFORCE DEVELOPMENT	3,500	C	4
MINNESOTA ENVIRONMENTAL INITIATIVE	8,000	C	4
UWAG Membership Dues	17,668	C	4
MINING MINNESOTA	15,000	C	4
MINNESOTA FOREST INDUSTRIES	13,669	C	4
MINNESOTA HIGH TECH ASSOCIATION	10,000	C	4
MINNESOTA TIMBER PRODUCER ASSOCIATION	250	C	4
NORTH AMERICAN ENERGY MARKETS ASSOCIATION (NAEMA)	3,000	C	4
CORNET GOBAL MIDWEST	800	C	4
NATIONAL ASSOCIATION OF MANUFACTUERS	1,000	C	4
AMERICAN WOOD PROTECTION ASSOCIATION	250	C	4
NATIONAL COAL TRANSPORTATION ASSOCIATION	625	C	4

A request filed by Appalachian Power Company and Wheeling Power Company (American Electric Power companies) reveals money going to many organizations working to increase the use of coal and prevent EPA regulations, but also the wind energy trade association.[57]

AMERICAN COAL ASH ASSOCIATION	3,971	EDISON ELECTRIC INSTITUTE	6,334
AMERICAN COAL COUNCIL	667	EMERGING ISSUES POLICY FORUM	4,020
AMERICAN COALITION FOR CLEAN	177,476		
AMERICAN INDUSTRIAL HYGIENE ASSOC	175		
AMERICAN WIND ENERGY ASSOC	5,965	EASTERN COAL COUNCIL	4,500
ARIZONA STATE UNIVERSITY	9,672	EDISON ELECTRIC INSTITUTE	345,465
ASSOCIATION OF EDISON	4,239		
ASSOCIATION OF ENERGY SERVICES	940		
BETTER INVESTING	2,222	NATIONAL ASSOCIATION FOR ENVIRONMENTAL	2,654
BLOOMBERG BNA	1,149	NATIONAL ASSOCIATION OF MANUFACTURERS	35,601
BOARD OF ENVIRONMENTAL	37	NATIONAL COAL COUNCIL	3,451
BUSINESS COUNCIL	533	NATIONAL COAL TRANSPORTATION ASSOCIATION	400
BUSINESS GOVERNMENT RELATIONS COUNCIL	490	NATIONAL INVESTOR RELATIONS INSTITUTE	352
BUSINESS ROUNDTABLE	14,560	NATIONAL MINING ASSOCIATION	6,505

[56] Minnesota Power Organization Dues available at https://www.documentcloud.org/documents/3224119-Minnesota-Power-Allete-Organization-Dues.html#document/p518/a329515

[57] Appalachian Power Company and Wheeling Power Company response to discovery re questions available at https://www.documentcloud.org/documents/3224308-Appalachian-Power-AEP-Membership-Dues.html

While the amounts highlighted in this report pale in comparison to the ratepayer money that utilities seek to build infrastructure, customers are nevertheless funding political activities which which they may not agree, and from which they do not benefit.

III. Utility Pushback Against Oversight of Their EEI Dues

Regulatory oversight of requests by utilities to recover EEI dues from ratepayers has lapsed in many states. For example, longstanding Florida Public Service Commission precedent requires utilities to provide “adequate segregation” of EEI dues, or commissioners would disallow the utility from recovering one-third of those dues as lobbying.[58] However, FPL reported in 2016 more than $9.5 million in EEI dues for 2015-2018 as part of its latest rate request before the Florida PSC. The utility’s request to include its EEI dues went unchallenged despite a lack of transparency or segregation, and its request was approved.

Many utility companies simply include an annual EEI invoice that footnotes the percentage EEI deems to be lobbying in the rate request as justification for the amounts charged to ratepayers and shareholders. That lobbying percentage has often been enough for a commission staff and commissioners. In fact, several of the utilities that EPI reviewed, including Dominion, El Paso Electric, Monongahela Power Company and the Potomac Edison Company, NV Energy, and NIPSCO, either submitted the EEI invoice as evidence or noted an amount based on percentages that EEI deemed lobbying in Account 426.4.

However, public utility commissions in a number of states have required utilities to provide evidence that any EEI payments benefit ratepayers. If the utility fails to do so, then commissioners have disallowed all of EEI dues from general operating expenses. In other cases, a utility must demonstrate that it has not only disallowed expenditures for lobbying but also all types political activities such as regulatory or legislative activities - and an EEI invoice is insufficient. Decision makers have disallowed nearly 50% of EEI dues based on detailed budget information that had previously been published for decades under guidance provided by the National Association of Regulatory Utility Commissioners (NARUC). But when regulatory staff have questioned EEI dues, utilities have been quick to respond and push back against staff testimony or discovery requests with rebuttals that show EEI invoices and/or prior precedents to allow for the recovery of EEI dues.

[58] Energy and Policy Institute, “The Real Cost Shift: Utilities Force Customers to Subsidize Attacks on Rooftop Solar” available at http://www.energyandpolicy.org/real-solar-cost-shift-subsidized-attacks-on-rooftop-solar/

EEI membership "appears to primarily benefit the Company"

In 2015, Missouri Public Service Commission utility regulatory auditors presented testimony to support the staff's proposal to disallow the entire amount of EEI dues in the rate request of Union Electric Company (Ameren).[59] While staff said that the ratepayers may receive some benefit from Ameren Missouri's membership in EEI, they noted that "the membership appears to primarily benefit the Company and its shareholders." The Minnesota Office of Attorney General similarly recommended that ratepayers not pay for EEI dues using the same reasoning: dues should not be recovered because EEI is primarily a lobbying organization.[60]

Missouri PSC staff cited a previous rate case, No.ER-82-66, that ordered all of Kansas City Power and Light's EEI dues in Missouri to be disallowed because the utility has not quantified the benefit to ratepayers.[61] Staff also cited Arkansas Power and Light Case, No.ER-85-265, in which the PSC "reaffirms its previously stated position that a utility company must properly assign EEI dues based upon the respective benefit to the ratepayers and the shareholders."[62] Staff further cited Union Electric Company Case No. EC-87-114, in which the commission stated that it has consistently excluded EEI dues from the cost of service "on the ground that these payments have not been shown to produce any direct benefit to the ratepayers."[63]

Ameren, despite established state precedent, still requested its ratepayers shoulder EEI contributions of $483,138 along with $235,455 to UARG, $96,010 to UWAG, and $47,163 to USWAG.[64] After negotiations between staff, Ameren, and several signatories, a settlement was reached to allow the utility to recover $11 million for various revenue issues, including

[59] Surrebuttal Testimony in Union Electric Company d/b/a Ameren Missouri case available at https://www.documentcloud.org/documents/3320628-MO-PSC-Surrebuttal-Testimony-Dues.html

[60] Minnesota Public Utilities Commission Staff Briefing Papers, Otter Tail Power Company GR-15-1033 available at https://www.documentcloud.org/documents/3675289-Otter-Tail-Power-MN-PUC-Staff-Briefing-Papers.html#document/p71/a351343

[61] Report and Order in Kansas City Power & Light Company case available at https://www.documentcloud.org/documents/3461052-Missouri-PSC-ER8266-EEI-Dues.html#document/p26/a338197; Surrebutal Testimony in Union Electric Company case available at https://www.documentcloud.org/documents/3320628-MO-PSC-Surrebuttal-Testimony-Dues.html#document/p4/a334933

[62] Surrebuttal Testimony in Arkansas Power and Light case available at https://www.documentcloud.org/documents/3320628-MO-PSC-Surrebuttal-Testimony-Dues.html#document/p5/a334932

[63] Report and Order in Union Electric Company case available at https://www.documentcloud.org/documents/3461051-Missouri-PSC-EC87114-EEI-Dues.html#document/p33/a338198; Surrebuttal Testimony in Union Electric Company case available at https://www.documentcloud.org/documents/3320628-MO-PSC-Surrebuttal-Testimony-Dues.html#document/p5/a334931

[64] Ameren Position of Statement of Dues, Including EEI and Environmental Working Groups Dues available at https://www.documentcloud.org/documents/3461233-MO-PSC-Statement-of-Positions-EEI-Dues.html#document/p3/a338293

EEI dues.[65] It is unclear from the settlement order what amount Ameren was allowed to charge its ratepayers.

In the Kansas City Power and Light Greater Missouri Operations Company rate request filed in December 2015, commission staff once again recommended that all EEI dues be disallowed. The utility said that it recorded approximately 21% of its dues to EEI below the line based on the invoice it received from the trade association.[66] However, commission staff, in a filing of limited issues, continued to recommend that the commissioners not force ratepayers to pay for EEI dues simply because the utility's membership "does not benefit ratepayers."[67] The rate case was settled and the issue of EEI dues was not mentioned.

"EEI ceased its earlier practice of issuing detailed information on its budget"

William Marcus, on behalf of the Office of Attorney General, testified in Oklahoma Gas & Electric's rate request before the Arkansas PSC in 2009.[68] Marcus said that OG&E has used the itemized invoice that EEI submitted to the utility to note that it is not seeking recovery for the 20% of Regular Activities and 40% of the fee for industry structure, which are all based on percentages footnoted on the invoice. However, Marcus recommended that the PSC disallow a total of 49.93% of the Regular Activities dues for ratemaking purposes as it did in the Entergy case, docket 06-101-U. Marcus cited the table below to justify its recommendation. The 49.93% is a result of adding Legislative Advocacy (20.38%), Regulatory Advocacy (16.49%), Advertising (1.67%), Marketing (3.68%), and Public Relations (7.71%). Marcus did not advocate for it, but commissioners could go further and disallow both Legislative Policy Research (6.02%) and Regulatory Policy Research (13.99%), since those categories support EEI's advocacy. The table comes from the last available audited data of EEI spending by NARUC categories, in 2005.

[65] Nonunimous stipulation and agreement regarding certain revenue and requirement issues available at https://www.documentcloud.org/documents/3519637-Settlement-Between-Ameren-and-PSC-Staff.html

[66] KCP&L Greater Missouri Operations Testimony available at https://www.documentcloud.org/documents/3320624-KCPL-Rebuttal-Testimony-2016-Dues.html#document/p25/a334971

[67] Missouri Public Service Commission Staff Positions on Listed Issues available at available at https://www.documentcloud.org/documents/3324311-MO-PSC-Rebuttal-to-KCPL.html#document/p8/a334973

[68] Application of Oklahoma Gas and Electric Corporation, Arkansas Attorney General testimony available at https://www.documentcloud.org/documents/3239426-Arkansas-AG-Office-2009-OGE-Rate-Request.html#document/p64/a332104

Table 11: EEI Spending

Edison Electric Institute
Schedule of Expenses by NARUC Category
For Core Dues Activities
For the Year Ended December 31, 2005

NARUC Operating Expense Category	% of Dues
Legislative Advocacy	20.38%
Legislative Policy Research	6.02%
Regulatory Advocacy	16.49%
Regulatory Policy Research	13.99%
Advertising	1.67%
Marketing	3.68%
Utility Operations and Engineering	11.31%
Finance, Legal, Planning and Customer Service	18.75%
Public Relations	7.71%
Total Expenses	100.00%

In Entergy Texas Inc.'s (ETI's) rate case, the utility filed a motion to strike parts of testimony given by Marcus that specifically dealt with the NARUC audit and EEI dues. Sheri Givens, then-attorney for the Texas Office of Public Utility Counsel, filed a defense of Marcus' testimony. Givens stated (emphasis added):

> ETI over-reaches in its claim and its Motion should be denied. **First, it is not speculation that EEI ceased its earlier practice of issuing detailed information on its budget that have previously been published. This fact is stated on lines 12 through 15 (EEI has decided on its own to stop issuing detailed information on its budget that had previously been published for decades under the auspices of NARUC)** … These are factual statements backed up by the response of the Kentucky Utilities Company to a discovery request by the Kentucky Public Service Commission

> … Kentucky Utilities expressly states, "Beginning in 2007, EEI is no longer preparing the breakout of activities by NARUC category as provided in the last rate case." ETI itself provided a letter from EEI that shows that of the former "breakout categories," only legislative advocacy is broken out and that is because it is required by the IRS because lobbying activities are not tax deductible for its members.[69]

In other words, Givens stated that because of the fact that EEI no longer provides its member companies breakouts of spending as defined by NARUC, instead providing only its lobbying percentages, it is acceptable for commissioners to use the latest audit by NARUC to understand EEI spending with greater precision.

"EEI spends money on many other things that do not fit the narrow definition of lobbying"

In California, Marcus, on behalf of The Utility Reform Network (TURN) proposed allocating 43.3% of EEI dues below the line rather than the 25% proposed by Pacific Gas & Electric (PG&E) for the utility's 2014 general rate case. In testimony, Marcus stated what this report argues, which is that "EEI spends money on many other things that do not fit the narrow definition of lobbying. The Commission has in the past specifically rejected all EEI spending for lobbying, legislative advocacy, regulatory advocacy, marketing, public relations, advertising, donations, and club dues."[70] TURN cited D. 96-01-011 as precedent.

The testimony further explained that "after a series of regulatory disallowances of significant parts of EEI dues across the country, EEI has decided on its own to stop issuing detailed information on its budget that had previously been published for decades under the auspices of NARUC." TURN then presented the 2005 audited schedule of expenses defined by NARUC (page 33 of this report) and another table that shows unaudited EEI expense categories for 2005 to 2009 obtained from a prior rate case in Arkansas.[71]

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[69] Application of Entergy Texas Inc., Office of Public Utility Counsel response available at https://www.documentcloud.org/documents/3288545-Texas-PUC-Response-to-Entergy-Texas.html#document/p11/a334904

[70] Electric Generation and Other Results of Operations Issues for Pacific Gas and Electric Company, The Utility Reform Network William Marcus testimony available at https://www.documentcloud.org/documents/3382426-TURN-PGE-Testimony-2014-Rate-Request.html#document/p72/a335205

[71] Ibid.

Table 32: EEI Spending Data 2005-2009 Arkansas PSC Staff DR 52-03 in Docket No. 10-067-U

Edison Electric Institute Schedule of Expenses

For Core Dues Activities

For the years Ended December 31, 2005 - 2009

(Unaudited)

% of Dues

Operating Expense Category	2005	2006	2007	2008	2009
Legislative Advocacy and Policy Research	26.4%	25.7%	16.2%	14.4%	21.9%
Public Relations	7.7%	8.8%	2.2%	2.0%	2.4%
Advertising	1.7%	1.3%	0.9%	2.3%	2.3%
Marketing	3.7%	3.9%	0.0%	0.0%	0.0%

The 43% that TURN proposes is a result of adding - at the time - the latest available information of Legislative Advocacy and Policy Research (21.9%), Public Relations (2.4%), Advertising (2.3%), and the spending on Regulatory Advocacy (16.5%) from the 2005 audited table.

The Commission agreed with TURN; thus preventing utility ratepayers from paying $300,000 of EEI dues.[72]

Southern California Edison "has not shown it has removed all political or lobbying costs"

TURN went a step further and proposed that EEI dues be completely disallowed from Southern California Edison's (SCE's) 2015 general rate case.[73] According to the proposed decision of Administrative Law Judge Kevin Dudney, SCE proposed to charge ratepayers for $1.463 million for EEI dues (the total EEI invoice to SCE was $1.922 million).[74] TURN contended that the money paid to EEI, in Account 930, was political. TURN stated, "SCE has

[72] Proposed Decision before the Public Utilities Commission of the State of California, Pacific Gas and Electric Company application available at https://www.documentcloud.org/documents/3239245-COMPENSATION-to-TURN-for-SUBSTANTIAL.html#document/p8/a331970

[73] Southern California Edison 2015 General Rate Case Rebuttal Testimony available at https://www.documentcloud.org/documents/3239584-Southern-California-Edison-2015-rebuttal.html#document/p25/a335207

[74] Proposed Decision Public Utilities Commission of the State of California, Southern California Edison application available at https://www.documentcloud.org/documents/2998283-Southern-California-Edison-revenues-for-2015.html#document/p376/a331987

not removed all of the NARUC categories that the Commission previously identified as inappropriate for ratepayer funding because of their inherently political nature."

TURN further claimed that EEI,

> waged an aggressive campaign in Arizona against net energy metering for distributed solar photovoltaic energy (solar PV), and SCE has not demonstrated that EEI dues to be recovered from California ratepayers excluded these or similar activities … TURN argues that if SCE is willing to fund EEI's efforts to fend off distributed PV through intervention in out-of-state utility regulatory proceedings and television advertising (including prime spots like during NFL games), then SCE's shareholders alone should fund those activities.

SCE called TURN's recommended disallowance "baseless and unreasonable." It recommended that the commissioners allow SCE's forecast for EEI membership dues of $1.462 million.[75] SCE also stated in its rebuttal testimony that it asked EEI to review TURN's testimony. EEI provided the following:

> TURN claims that "the world changed dramatically in 2013" as "EEI embarked upon a political advertising campaign" to "fight solar." Further TURN claims that EEI utilized "massive television advertising," spending "huge, undisclosed sums of money…" and "blanketing the airwaves." This is clearly not true. While EEI did run an ad on TV in Arizona, it was only limited markets for a limited period of time. In face [sic], the … data shows that the percentage of dues used for Lobbying, Public and Media Relations, Advertising, and Marketing was 20.5 percent in 2013, less than the 21.2 percent in 2012.
>
> While NARUC no longer requires EEI to provide detailed information, EEI has continued to use the NARUC definitions to compute the percentage of member dues used for Lobbying, Public and Media Relations, Advertising, and Marketing. These percentages are compiled through a careful accounting of the time spent by EEI lobbyists and staff as well as expenditures on programs, consultants, and other expenses.

Despite SCE's rebuttal plus the fact that EEI involved itself in the rate case to defend and explain its spending - **while admitting it no longer provides detailed information to NARUC** - Judge Dudney agreed with TURN. Judge Dudney stated that "SCE has not shown it has removed all political or lobbying costs from its forecast." However, Judge Dudney declined to disallow all of SCE's EEI dues outright, but adopted TURN's methodology from

[75] Southern California Edison 2015 Genera Rate Case Rebuttal Testimony available at https://www.documentcloud.org/documents/3239584-Southern-California-Edison-2015-rebuttal.html#document/p25/a332133

the PG&E 2014 general rate case and reduced SCE's forecast of EEI dues to $1 million from the total $1.922, a disallowance of 47.9%.[76]

"EEI no longer publishes this information on a routine basis, having stopped NARUC audits in the vicinity of 2006"

In September 2015, Marcus testified again on behalf of the Arkansas Office of Attorney General during Entergy Arkansas Inc.'s (EAI's) rate request. EAI requested that ratepayers pay $293,398, or 81.5%, of EEI dues after adjusting out $66,362. Marcus recommended increasing the disallowance to $145,294 - a 40% charge to shareholders. Marcus justified this recommendation by stating that there has been a framework established for commissions to disallow EEI's political expenses aside from lobbying and specifically cited SCE's 2015 general rate case. Marcus proposed to use the 2012 information that revealed EEI spent 21% of its budget on lobbying, public and media relations, advertising, and marketing. Marcus then added 6% for legislative policy research, 16% that was regulatory advocacy, and rounded down "for conservatism."[77]

He also stated that despite the information he has been able to compile, very little is known about EEI expenses, though not for lack of trying:

> EEI no longer publishes this information on a routine basis, having stopped NARUC audits in the vicinity of 2006.[78] EEI hands out information that it feels like giving utilities when they ask for it, but never provides complete information in the same format that it used to provide.

This fact was brought up by the Arizona Residential Utility Consumer Office (RUCO) during Arizona Public Service's rate case. In December 2016, RUCO proposed a 49.93% disallowance of EEI dues determined by the 2005 NARUC operating expense breakdown table. The consumer advocate office said that this figure cannot be updated because EEI stopped providing this information after 2006. "RUCO believes after a series of regulatory

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[76] Proposed Decision Public Utilities Commission of the State of California, Southern California Edison application available at https://www.documentcloud.org/documents/2998283-Southern-California-Edison-revenues-for-2015.html#document/p378/a310066

[77] Entergy Arkansas, Inc. Rate Request, Arkansas Attorney General William Marcus testimony available at https://www.documentcloud.org/documents/3239429-Arkansas-AG-Office-2015-Entergy-Rate-Request.html#document/p32/a335208

[78] Footnote used by Marcus: Response to Initial Requests for Information (Question 65) of the Kentucky Attorney General (August 27, 2008) from Kentucky Public Service Commission Case No. 2008-00251 and 2007-00565 for Kentucky Utilities Company, found at http://psc.ky.gov/pscscf/2008%20cases/2008-00251/KU_Response%20to%20AG's%20Requests%20dated%20082708%20(Vol%201of3)_091108.pdf

partial disallowances of EEI dues by Commissions across the nation, EEI decided not to provide this information to NARUC, which it had previously done for at least a decade."[79]

RUCO proposed that of the $1,188,411 charged to APS for EEI dues, shareholders should pay for $593,373, 49.93%, of that amount instead of $211,748, 20%, as proposed by the utility. This left $946,663 to be paid for by APS ratepayers to help fund EEI, including UARG and USWAG - RUCO noted. The consumer advocacy group further noted, "These groups represent the interest of electric generations such as APS, TEP and UNS donations and membership is purely voluntary, many of which are political in nature, and may not be necessary for the provision of utility services."[80]

"Staff removed amounts associated with industry dues that appear to be political or lobbying in nature"

In Virginia, in 2015, the Associated Press revealed that Dominion was charging ratepayers for charitable contributions, including for payments to overtly political groups like the Virginia Chamber of Commerce that have supported the utility's agenda in the state legislature.[81] Then-Attorney General Ken Cuccinelli said, "Why should captive ratepayers, who have no option to get electricity from another company, be compelled to fund the charitable choices of a company? Leave the ratepayers their money, and let them make their own charitable choices."[82]

Dominion initially said it was following established State Corporation Commission precedent, and eventually agreed to end the practice and use shareholder money for all of its charitable giving, but pushed back against the proposal to remove EEI dues.[83] Indeed, a Virginia Corporation Commission public utility accountant proposed to remove more EEI dues than Dominion had originally allocated in their cost of service. In pre-filed testimony, staff said that the dues removed "appear to be political or lobbying in nature." Yet, Dominion disagreed and

[79] Direct Testimony of Frank Radigan, RUCO, Docket No. E-01345A-16-0036 available at https://www.documentcloud.org/documents/3625848-RUCO-Filing-APS-EEI-Dues.html

[80] Ibid.

[81] Associated Press, "Dominion Power's donations partially subsidized by its customers" available at http://wavy.com/2015/08/22/dominion-powers-donations-partially-subsidized-by-its-customers/

[82] Associated Press, "Dominion won't include charity donations in customers' bill" available at http://www.richmond.com/business/article_b08eb8da-2b65-5b52-88af-f1d52032c2c9.html

[83] Pre-filed Staff Testimony in Virginia Electric and Power Company case, Adjustment to Remove Lobbying Expenses from Industry Dues available at https://www.documentcloud.org/documents/3461043-EEI-and-Dominion-Rate-Case-Documents.html#document/p16/a338180

cited EEI invoices to note that it had charged the correct amounts to the FERC codes.[84] Staff, in rebuttal testimony, still disagreed with Dominion over EEI charges to ratepayers.[85]

Dominion charged to shareholders the dues to other organizations that "appear political in nature," including the American Legislative Exchange Council, and all of the Republican and Democratic party organizations even after staff objected.[86]

IV. Waning Regulatory Oversight of Ratepayers Paying for Political Membership Dues

In 1984, according to the *New York Times*, the National Association of Regulatory Utility Commissioners (NARUC) conducted a 20-month investigation into EEI's misuse of money collected from ratepayers of the nation's electric utilities for lobbying and public relations.[87] At the time, EEI's budget was about $30 million.

"It's a small amount of money in the context of utility rates, but it's a large amount in a political context," said Peter A. Bradford, chairman of the Maine Public Utilities Commission, at the time. "It can support a national media or lobbying campaign that can have a substantial impact on public consciousness or policies."[88]

The article revealed that during the time of NARUC's investigation, at least a dozen states (it noted Texas, California, Colorado, Florida, Massachusetts, and Missouri) started to disallow part or all of dues and advertising money paid to EEI from ratepayers' bills.

In 1985, the *Washington Post* reported that NARUC's director of financial analysis had been conducting on-site investigation of EEI's books on behalf of NARUC. Michael Foley, the director, said, "It is clear to us, based on a rather probing analysis of their expenditures, that the principal thrust of the Edison Electric Institute's activities is that of attempting to influence

[84] Rebuttal Testimony in Virginia Electric and Power Company case, Industry and Professional Dues available at https://www.documentcloud.org/documents/3461043-EEI-and-Dominion-Rate-Case-Documents.html#document/p128/a338184

[85] Supplemental Testimony in Virginia Electric and Power Company case available at https://www.documentcloud.org/documents/3461043-EEI-and-Dominion-Rate-Case-Documents.html#document/p216/a338187

[86] Virginia Electric and Power Company Reclass Certain Industry Dues to Other Income/Expenses available at https://www.documentcloud.org/documents/3461043-EEI-and-Dominion-Rate-Case-Documents.html#document/p256/a338192

[87] New York Times, "Utility Group Criticized on Funds for Lobbying" available at http://www.nytimes.com/1984/07/21/business/utility-group-criticized-on-funds-for-lobbying.html

[88] Ibid.

the affairs of the federal government … The majority of the dues received from utilities are directed toward that goal."[89]

The NARUC investigation was not just focused on EEI, but also groups EEI funds, specifically that Utility Air Regulatory Group (UARG) and the Utility Solid Wast Activity Group (USWAG).[90]

Ultimately, the initial investigation into EEI's lobbying figures led to NARUC concluding that an audit of financial records must be made and that there must be definitions that categorizes EEI's budget - those are the categories that William Marcus has presented in testimony (page 33 of this report).

A few years after the investigation, NARUC formed a "Committee on Utility Association Oversight" to provide rigorous oversight of any annual EEI dues to be paid by utility ratepayers; the National Association of State Utility Consumer Advocates (NASUCA) endorsed that approach via a resolution passed in 1988.[91] The NASUCA resolution warned that "attempts are being made to dilute the effectiveness of the committee's efforts…"[92]

In addition to providing oversight, NARUC's Committee on Utility Association Oversight was also charged with developing appropriate audit definitions and audit procedures for EEI, AGA, the Committee for Energy Awareness (now the U.S. Council for Energy Awareness) and the United States Telephone Association.[93]

NARUC officially disbanded the committee in 2000, but suggested that "random" reviews of industry associations by the group's Staff Subcommittee on Accounts would continue under the purview of the Committee on Finance and Technology.[94] It is unclear if any such "random" reviews have occurred since, although William Marcus has been able to present EEI's budget categorized using NARUC codes as late as 2005.

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[89] Washington Post, "Ratepayers Said to Fuel Utility Lobby" available at https://www.washingtonpost.com/archive/business/1985/11/18/ratepayers-said-to-fuel-utility-lobby/92d0aa17-9cd0-426e-810e-265d303321ee/?utm_term=.4996c08bbf86

[90] Ibid.

[91] National Association of State Utility Consumer Advocates Resolution available at https://www.documentcloud.org/documents/3213696-National-Association-of-State-Utility-Consumer.html#document/p15/a327118

[92] Ibid.

[93] Ibid.

[94] NARUC Resolution available at http://pubs.naruc.org/pub/53A13CA7-2354-D714-513A-A44A35A37CAF; Entergy Arkansas, Inc. approval of changes in rates, Entergy Arkansas sur-surrebuttal testimony available at https://www.documentcloud.org/documents/3519952-Entergy-Arkansas-Sur-Surrebuttal-Testimony-NARUC.html

Regulators must now rely solely on information provided by utilities and industry associations that have an obvious self-interest in maximizing the amount of their dues that will be paid by utility ratepayers.

Recommendations

The evidence in this report reveals that EEI is primarily and inherently a political organization, and that much of its work targets policymakers throughout all levels of government to build influence, specifically for their member companies but also for the industry at large. While many states have their established practices of how to code trade association dues, they should revisit outdated guidelines due to the nature of EEI's modern activities to ensure that they are adequately protecting ratepayers. Throughout the past three decades, some regulators and consumer advocates have acted to protect ratepayers, but scrutiny has waned dramatically. Precedent exists for public officials to act in every state to investigate whether or not EEI's inherently political work ought to be funded by ratepayers.

EPI recommends that:

1. Public utility commissioners and their staff should place the burden of proof on utilities to demonstrate the exact percentage of customer money provided to industry groups and other political organizations, including EEI, that actually benefits their ratepayers. This is not a recommendation for commissioners to indiscriminately disallow all EEI dues, as certain EEI programs such as storm response coordination may indeed be apolitical and provide a benefit to ratepayers. However, utilities should have to disclose the exact benefits that their political industry associations confer to ratepayers for each of their activities in detail; it is insufficient for utilities to file an annual invoice from an organization that notes the lobbying percentage, defined narrowly for tax purposes, as the only guidance for commissions to determine what should be charged to ratepayers.
2. Consumer advocates and other parties whose mission is to protect ratepayers, such as attorneys general, should file for discovery in order to receive additional documents to have a better understanding how a utility company works with EEI, and whether that work benefits ratepayers.
3. The National Association of Regulatory Utility Commissioners (NARUC) should revive the Committee on Utility Association Oversight and audit the books of EEI, NEI, and AGA to determine the percentage of their operations which are political in nature and therefore ought not to be funded by ratepayers.

4. NARUC should compile an extensive survey that shows the percentages of dues utility ratepayers are paying to industry organizations and political party focused groups; particularly (though not limited to) EEI; American Gas Association (AGA); Nuclear Energy Institute (NEI); U.S. Chamber of Commerce; Democratic Governors Association; and Republican Governors Association. Such a manual could help utility accounting staff across the country manage the challenges associated with determining industry association dues during rate requests. This report reveals only several instances and is not exhaustive.

Appendix I: Tables of Selected Utilities' Requests for Ratepayer Money to Fund EEI Dues, and Challenges to Requests

An initial, non-comprehensive review by the Energy and Policy Institute using state public utility commission docket systems identified millions of dollars in annual utility payments to EEI that utility ratepayers are funding. The table below provides a sample of EEI payments that utilities have proposed to recover from ratepayers.

Utility	Amount requested to be paid to EEI above-the-line	Docket	Utility	Amount requested to be paid to EEI above-the-line	Docket
Centerpoint Energy (TX)	$606,847	Schedule B.6	**Monongahela Power (WV)**	$125,362	14-0702-E-42T, J-5 of Eighth RFI, CAD J-3 CAD E-36
Dominion (VA)	$1,162,690.66	PUE-2015-00027	**Northern Indiana Public Service Company (IN)**	$181,112	MSFR-15-8(a)(23)
Duke Energy (NC)	$1,351,218	E-7, Sub 1026	**NV Energy (NV)**	$556,593	Docket 16-06XXX; Data Request 94E Attach 03
El Paso Electric (TX)	$240,363	SOAH 473-15-5257; PUC 44941, Schedule-4.3a, Staff 10-9 Attachment 1	**Oklahoma Gas & Electric (OK)**	$670,609	201500273
Florida Power & Light (FL)	$2,290,051	160021	**Pennsylvania Electric Company**	$132,000	R-2016-2537352; Vol1 RAD-26
Georgia Power (GA)	$698,521	Document Filing # 149710 Docket: 36989	**Potomac Edison (WV)**	$82,447	14-0702-E-42T, J-5 of Eighth RFI, CAD J-3 CAD E-36
Indianapolis Power & Light (IN)	$268,000	44576, OM14	**Wisconsin Electric Power Company (WI)**	$728,712	Docket 05-UR-107
Kentucky Utilities Company (KY)	$366,645.57	2016-00370, Q 52b	**Wisconsin Public Service Corporation (WI)**	$399,000	6690-UR-124; 12-MK
Minnesota Power (MN)	$263,770	E015/GR-16-664; Schedule G-3	**Union Electric Company (MO)**	$483,000	ER-2014-0258

The second table highlights proposals and decisions where advocates or commissions proposed that all or a significant amount of EEI dues be disallowed from being paid by utility ratepayers.

Utility	Total amount requested to be paid to EEI	Amount requested below-the-line	Percentage requested below-the-line	Staff/Intervenors request for percentage disallowed	Commission decision of percentage disallowed	Docket
Arizona Public Service (AZ)	$1,188,411	$211,748	20%	49.93%	Settlement agreement	E.01345A-16-0036
Entergy (AR)	$359,761	$66,362	18%	40%	Settlement agreement	15-015-U
Kansas City Power & Light GMO (MO)	Unclear from filings	Unclear from filings	21%	100%	Settlement agreement	ER-2016-0156
Kansas City Power & Light (MO)	$107,100	$2,100	2%	100%	100%	ER-82-66
Pacific Gas & Electric (CA)	$1,620,720	$405,180	25%	43.3%	43.3%	12-11-009
Southern California Edison (CA)	$1,922,000	$459,000	24%	100%	47.9%	13-11-003
Union Electric Company (MO)	$336,000	$56,000	20%	100%	100%	EC-87-114

Appendix II: Sample Discovery Questions

While the decisions ultimately lie in the hands of commissioners, staff and intervenors generally have the ability to compel utilities to disclose or document further details about their EEI dues.

Below are sample questions regarding cost recovery of utility dues to EEI or other trade associations:

- Provide a copy of the Annual Report of EEI and every other organization of which the Company was a dues-paying member during the years in question.
- What amount of EEI dues is the Company is asking to be recovered from customers, and are the company's shareholders paying for any of these dues?
- Provide a copy of the formula used to compute, and the actual calculation of the Company's EEI dues for the years in question. Also, provide a complete copy of invoices received from EEI for dues for these years.
- Provide any documents in the Company's possession that show how EEI spends the dues it collects, including the percentage that goes to the following categories previously provided by NARUC: legislative advocacy; legislative policy research; regulatory advocacy; regulatory policy research; advertising; marketing; utility operations and engineering; finance, legal, planning and customer service, and public relations.
- Provide a detailed description of the services provided by EEI to the Company during the years in question. Of these services or benefits, please provide what benefits accrue to ratepayers, and how.
- Provide copies of all work product which EEI provided to the Company during the years in question, including (but not limited to): presentations, webinar recordings, briefing books, meeting minutes, policy memos, white papers, etc.
- Has the Company included in operating expenses any amount for EEI Media Communications? If so, state the amount, indicate in which account this has been recorded, and provide a citation to any and all Commission Orders or other authority upon which the Company is relying for the inclusion of such expense in the test period. If not, can the Company provide an estimate of how much of its dues is being spent on media or public relations work?
- Regarding the EEI invoice provided by the Company declaring that [a specific percentage] of EEI's dues are "relating to influencing legislation", please say whether the Company knows if the following expenditures made by EEI are classified as "relating to legislation": [relevant assuming this invoice has been provided.]
    - A ten-day, $520,000 television advertising campaign in Arizona backing Arizona Public Service's position on net metering in 2013.
    - Payments to the law firm Hunton & Williams or Edison Electric Institute related to the Utility Air Regulatory Group.
    - Payments for the Utility Solid Waste and Activities Group
    - Expenditures on "We Stand For Energy," or "Defend My Dividend," public relations and advocacy efforts.
    - Contributions from EEI to third-party organizations and contractors including (though not limited to):
        - Democratic Governors Association

    - Democratic Attorneys General Association
    - Democratic Leadership Council
    - Democratic Legislative Campaign Committee
    - Republican Governors Association
    - Republican Attorneys General Association
    - Republican State Leadership Committee
    - National Conference of State Legislators
    - American Legislative Exchange Council
    - National Black Chamber of Commerce
    - Americans For Prosperity
    - State Policy Network
    - U.S. Chamber of Commerce
    - Congressional Black Chamber of Commerce
    - NetCommunications
- How much has EEI paid, during the years in question, for its effort to “rebrand” the utility industry. Please include payments to external PR firms as well as the associated salary to any EEI staff involved in contracting, coordinating with, or promulgating internally or externally the rebranding campaign effort?[95]
- Does the Company’s dues to EEI contribute to the salary, benefits and expenses of EEI Executive Vice President for Public Policy and External Affairs Brian Wolff, who has led an effort undertaken by EEI to rebrand the utility industry?[96]
- List all travel and entertainment expenses incurred in the test period by Company employees in relation to EEI and other industry association activities. Show accounts, amounts, descriptions, person, job title and reason for the expense. Provide a copy of employee time and expense reports and invoices documenting such expenses.
- Is the Company relying upon any NARUC reports or other studies for the exclusion from or inclusion in rates of a portion of its EEI dues? If so, please provide a copy of such report and indicate how the report's recommendations have been included in its filing.
- Do any of the Company's personnel actively participate on Committees and/or do any other work for any industry organization to which the Company belongs? a. If so, state specifically which employees participate, how they are compensated for their time (amount and source of compensation), and the purpose and accomplishments of any such association related work. b. List any and all reimbursements received from industry associations, for work performed for such organizations by Company employees.

[95] The Huffington Post, “This Messaging Guru Is Helping Utilities Clean Up Their Appearance” available at http://www.huffingtonpost.com/entry/messaging-utilities-solar-power_us_56f45cd6e4b014d3fe22b572

[96] The Huffington Post, “This Messaging Guru Is Helping Utilities Clean Up Their Appearance” available at http://www.huffingtonpost.com/entry/messaging-utilities-solar-power_us_56f45cd6e4b014d3fe22b572

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July 21, 2017

The Honorable James Mortenson
Administrative Law Judge
Office of Administrative Hearings
600 North Robert Street
P.O. Box 64620
St. Paul, MN 55164-0620

Re: ***In the Matter of the Application of Minnesota Power for Authority to IncreaseRates for Electric Utility Service in Minnesota***
MPUC Docket No. E015/GR-16-664
OAH Docket No. 5-2500-34078

Dear Judge Mortenson:

Enclosed and e-filed in the above-referenced matter please find Surrebuttal Testimony and Schedules of the Minnesota Office of the Attorney General – Residential Utilities and Antitrust Division Witness Shoua Lee.

By copy of this letter all parties have been served. An Affidavit of Service is also enclosed.

Sincerely,

s/ **Ryan P. Barlow**
RYAN P. BARLOW
Assistant Attorney General

(651) 757-1473 (Voice)
(651) 296-9663 (Fax)

Enclosures
cc: Service List

AFFIDAVIT OF SERVICE

Re: ***In the Matter of the Application of Minnesota Power for Authority to Increase Rates for Electric Utility Service in Minnesota***
MPUC Docket No. E015/GR-16-664
OAH Docket No. 5-2500-34078

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

I, JUDY SIGAL, hereby state that on the 21st day of July, 2017, I e-filed with eDockets **Surrebuttal Testimony and Schedules of the Minnesota Office of the Attorney General – Residential Utilities and Antitrust Division Witness Shoua Lee,** and served the same upon all parties on the attached Service List, via electronic submission and/or United States Mail with postage prepaid, and deposited the same in a U.S. Post Office mail receptacle in the City of St. Paul, Minnesota.

s/ Judy Sigal
JUDY SIGAL

Subscribed and sworn to before me
this 21st day of July, 2017.

s/ Patricia Jotblad
Notary Public
My Commission expires: January 31, 2020.

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First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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Max	Peters	maxp@cohasset-mn.com	City of Cohasset	305 NW First Ave Cohasset, MN 55721	Electronic Service	No	OFF_SL_16-664_Official CC Service List
Jennifer	Peterson	jjpeterson@mnpower.com	Minnesota Power	30 West Superior Street Duluth, MN 55802	Electronic Service	No	OFF_SL_16-664_Official CC Service List
William	Phillips	wphillips@aarp.org	AARP	30 E. 7th St Suite 1200 St. Paul, MN 55101	Electronic Service	No	OFF_SL_16-664_Official CC Service List
Marcia	Podratz	mpodratz@mnpower.com	Minnesota Power	30 W Superior S Duluth, MN 55802	Electronic Service	Yes	OFF_SL_16-664_Official CC Service List
Tolaver	Rapp	Tolaver.Rapp@cliffsnr.com	Cliffs Natural Resources	200 Public Square Suite 3400 Cleveland, OH 441142318	Electronic Service	No	OFF_SL_16-664_Official CC Service List
Kevin	Reuther	kreuther@mncenter.org	MN Center for Environmental Advocacy	26 E Exchange St, Ste 206 St. Paul, MN 551011667	Electronic Service	No	OFF_SL_16-664_Official CC Service List
Ralph	Riberich	rriberich@uss.com	United States Steel Corp	600 Grant St Ste 2028 Pittsburgh, PA 15219	Electronic Service	No	OFF_SL_16-664_Official CC Service List
Buddy	Robinson	buddy@citizensfed.org	Minnesota Citizens Federation NE	2110 W. 1st Street Duluth, MN 55806	Electronic Service	No	OFF_SL_16-664_Official CC Service List
Santi	Romani	N/A	United Taconite	P O Box 180 Eveleth, MN 55734	Paper Service	No	OFF_SL_16-664_Official CC Service List

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Susan	Romans	sromans@allete.com	Minnesota Power	30 West Superior Street Legal Dept Duulth, MN 55802	Electronic Service	No	OFF_SL_16-664_Official CC Service List
Richard	Savelkoul	rsavelkoul@martinsquires.com	Martin & Squires, P.A.	332 Minnesota Street Ste W2750 St. Paul, MN 55101	Electronic Service	No	OFF_SL_16-664_Official CC Service List
Thomas	Scharff	homas.scharff@versoco.com	Verso Corp	600 High Street Wisconsin Rapids, WI 54495	Electronic Service	No	OFF_SL_16-664_Official CC Service List
Larry L.	Schedin	Larry@LLSResources.com	LLS Resources, LLC	332 Minnesota St, Ste W1390 St. Paul, MN 55101	Electronic Service	No	OFF_SL_16-664_Official CC Service List
Robert H.	Schulte	rhs@schulteassociates.com	Schulte Associates LLC	1742 Patriot Rd Northfield, MN 55057	Electronic Service	No	OFF_SL_16-664_Official CC Service List
Britt	See Benes	britt@ci.aurora mn.us	City of Aurora	16 W 2nd Ave N PO Box 160 Aurura, MN 55705	Electronic Service	No	OFF_SL_16-664_Official CC Service List
Janet	Shaddix Elling	jshaddix@janetshaddix.com	Shaddix And Associates	Ste 122 9100 W Bloomington Frwy Bloomington, MN 55431	Electronic Service	Yes	OFF_SL_16-664_Official CC Service List
Doug	Shoemaker	dougs@mnRenewables.org	MRES	2928 5th Ave S Minneapolis, MN 55408	Electronic Service	No	OFF_SL_16-664_Official CC Service List
Brett	Skyles	Brett.Skyles@co.itasca.mn.us	Itasca County	123 NE Fourth Street Grand Rapids, MN 557442600	Electronic Service	No	OFF_SL_16-664_Official CC Service List

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Corbin	Smyth	csmyth@d.umn.edu	UMD Student Life	1208 Kirby Dr Duluth, MN 55812	Electronic Service	No	OFF_SL_16-664_Official CC Service List
Richard	Staffon	rcstaffon@msn.com	W. J. McCabe Chapter, Izaak Walton League of America	1405 Lawrence Road Cloquet, Minnesota 55720	Electronic Service	No	OFF_SL_16-664_Official CC Service List
James M.	Strommen	jstrommen@kennedy-graven.com	Kennedy & Graven, Chartered	470 U.S. Bank Plaza 200 Sou h Sixth Street Minneapolis, MN 55402	Electronic Service	No	OFF_SL_16-664_Official CC Service List
Eric	Swanson	eswanson@winthrop.com	Winthrop & Weinstine	225 S 6th St Ste 3500 Capella Tower Minneapolis, MN 554024629	Electronic Service	No	OFF_SL_16-664_Official CC Service List
Robert	Tammen	bobtammen@frontiernet.net	Wetland Ac ion Group	PO Box 398 Soudan, MN 55782	Electronic Service	No	OFF_SL_16-664_Official CC Service List
David	Thornton	J.David.Thornton@state.mn.us	MN Pollution Control Agency	520 Lafayette Road St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_16-664_Official CC Service List
Jim	Tieberg	jtieberg@polymetmining.com	PolyMet Mining, Inc.	PO Box 475 County Highway 666 Hoyt Lakes, MN 55750	Electronic Service	No	OFF_SL_16-664_Official CC Service List
Jessica	Tritsch	jessica.tritsch@sierraclub.org	Sierra Club	2327 E Franklin Ave Minneapolis, MN 55406	Electronic Service	No	OFF_SL_16-664_Official CC Service List
Karen	Turnboom	karen.turnboom@versoco.com	Verso Corporation	100 Central Avenue Duluth, MN 55807	Electronic Service	No	OFF_SL_16-664_Official CC Service List
Kodi	Verhalen	kverhalen@briggs.com	Briggs & Morgan	2200 IDS Center 80 South Eighth Street Minneapolis, Minnesota 55402	Electronic Service	Yes	OFF_SL_16-664_Official CC Service List

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Kevin	Walli	kwalli@fryberger.com	Fryberger, Buchanan, Smith & Frederick	380 St. Peter St Ste 710 St. Paul, MN 55102	Electronic Service	No	OFF_SL_16-664_Official CC Service List
Cam	Winton	cwinton@mnchamber.com	Minnesota Chamber of Commerce	400 Robert Street North Suite 1500 St. Paul, Minnesota 55101	Electronic Service	No	OFF_SL_16-664_Official CC Service List
Daniel P	Wolf	dan.wolf@state.mn.us	Public Utilities Commission	121 7 h Place East Suite 350 St. Paul, MN 551012147	Electronic Service	Yes	OFF_SL_16-664_Official CC Service List
Scott	Zahorik	scott.zahorik@aeoa.org	Arrowhead Economic Opportunity Agency	702 S. 3rd Avenue Virginia, MN 55792	Electronic Service	No	OFF_SL_16-664_Official CC Service List